

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**June 9, 2005**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 9, 2005, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair; Harold Warner Jr. Vice-Chair; James Barfield; Darrell Downing; John W. McKay Jr. (Out @ 4:40); Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Frank Garofalo; Denise Sherman (In @ 1:41) and Bud Hentzen. Ronald Marnell and Gary K. Gibbs were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; David Barber, Advanced Plans Manager; and Rose Simmering, Recording Secretary.

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#### **1. Approval of May 12, 2005 meeting minutes.**

**MOTION:** Approval of May 12, 2005 meeting minutes as amended.

**WARNER** moved, **DOWNING** seconded the motion and it carried. (11-0)

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#### **2. Aquifer Recharge and Storage Project – Presentation by David Warren, Director of Water and Sewer.**

JERRY BLAIN, DESIGN ENGINEER/PROGRAM MANAGER, WATER AND SEWER ADMINISTRATION presentation



MAPC-2005.ppt

ALDRICH How many communities are going to be utilizing the water out of the source?

BLAIN When we did our Water Supply Plan we made the assumption that all the communities in Sedgwick County plus most of western Butler County would get their water supply from Wichita, by 2050.

ALDRICH Will they be sharing in the cost of development also?

BLAIN Our customers are those going to be paying for the water supply.

MITCHELL What is the relationship of the Central Kansas Water Coalition, which has recently been formed, with this project?

BLAIN That entity was put together to look at regional issues, and also to get some regional efforts toward source water protection, be it groundwater or surface water.

HENTZEN Jerry, thank you for a good presentation. Based on putting back the water into the aquifer, suppose that the plan or idea is a complete failure, are we prepared or do we think we need to be prepared to treat the water that we put back in the aquifer before we do it?

BLAIN Yes.

HENTZEN Are you convinced that we can do that without contaminating the aquifer more than it is now?

BLAIN We are absolutely convinced that we can treat the water to drinking water standards before it is recharged into the aquifer. Right now 60% of the sites don't meet drinking water standards now, but all the water that we will be putting in will meet all drinking water standards. It has to.

#### **TAPE CHANGE TAPE 1 SIDE B**

BISHOP What is the percentage of water usage from Cheney Reservoir versus what we take from the aquifer?

BLAIN Right now we are getting about 65-70% of our water supply from Cheney Reservoir. Prior to 1992 we were only getting 30% from Cheney. We basically used the Equus Beds as our primary source and just filled in with Cheney water, and now we are doing it the other way around.

DUNLAP The history was that when we built Cheney Reservoir we were also looking at a second reservoir south of Cheney. What has happened to that plan?

BLAIN That plan was one of the 27 things that we looked at, and one of the reasons that they haven't been built is water quality. The Corbin site had high chlorides coming from the south fork of the Ninescah.

DUNLAP We used to have every summer restrictions on lawn watering and washing cars; we don't have that anymore. What happened to that policy?

BLAIN 1990 was the first year that we had water restrictions. Since that point in time we have done an extensive amount of improvements on your water supply.

DUNLAP How many number of above base flow events do we have a year? I call them floods.

BLAIN We assume based on past history that there would be about 90-100 days a year that we can get 100 million gallons a day of water out of the Aquifer.

BISHOP Is it not true that the more water you use the more expensive it becomes incrementally?

BLAIN That is correct. That is conservation, and that is when we implemented the three tier rate structure and that is the more you use the more it cost you, and this structure has reduce usage and has worked effectively.

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❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee

3-1. **SUB 2005-46: One-Step Final Plat -- HARBOR ISLE SOUTH ADDITION**, located north of 41<sup>st</sup> Street North and on the east side of Meridian.

**NOTE:** This is an unplatted site located within the City. A zone change request (ZON 2005-21) from SF-5, Single-Family Residential and LC, Limited Commercial to LC, Limited Commercial (Lot 2), NR, Neighborhood Retail (Lot 1) and SF-5, Single-Family Residential has been requested. The Harbor Isle South Community Unit Plan (CUP 2005-22, DP-285) has also been requested for this site.

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change/CUP and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change/CUP will need to be approved.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The plat proposes two openings along Meridian for Lot 1, Block 1 and complete access control along the remainder of the property frontage. Distances should be shown for all segments of access control. The final plat tracing shall reference the dedication of access controls in the plat's text. **The access openings should be noted as being in accordance with the minimum spacing requirements of the City of Wichita Access Management Standards.**
- F. **City Engineering** has requested a petition for a future decel lane for Lot 1.
- G. The plat should be included within one block.
- H. Benchmark #1 is missing a symbol.
- I. Benchmark datum needs to be shown.
- J. **City Fire Department** needs to comment if the plat meets the Fire Department single street entrance access standards. **The entrance widths are approved.**
- K. **City Fire Department** needs to comment on the street length of Waterford (2000 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. **The opening from Waterford through Lot 1, Block 1 as shown on the preliminary plat needs to be established through a public access easement.**
- L. In accordance with the Subdivision Regulations, maintenance/emergency access easements have been platted for development of zero lot line dwellings. The easements shall be a minimum of five feet in width and referenced in the plat's text with the following language as specified in the Subdivision Regulations: "The maintenance/emergency access easements, as shown, are hereby platted for the purpose of pedestrian emergency access, construction, maintenance, the extension of the footing and a two-ft overhang of the structure on the adjacent lot." **The Applicant will be revising the plat to eliminate the maintenance/emergency access easements since zero lot line dwellings will not be proposed. The reference in the plat's text will be deleted.**

- M. The Applicant shall guarantee the paving of the proposed streets.
- N. Since this plat proposes the platting of narrow street right-of-way, adjacent "street, drainage and utility easements" must be platted.
- O. Since this plat proposes the platting of narrow street right-of-way with adjacent "street, drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- P. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- R. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between Reserve A and Meridian.
- S. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- T. The parking areas adjoining Reserve A need to be included as "parking easements" and need to be at least 20-feet deep and no wider than 50 feet. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- U. Since Reserve B includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. **Department of Environmental Health** also advises of the need for plan review prior to licensing of the pool.
- V. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- W. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- X. Various lots may not conform with the 50-ft lot width standard, which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- Y. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- Z. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for various lots. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- AA. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- BB. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- CC. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- DD. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- EE. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- FF. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control

devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- GG. Perimeter closure computations shall be submitted with the final plat tracing.
- HH. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- II. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- JJ. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

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- 3-2. **SUB 2005-28: Revised One-Step Final Plat -- FURLEY UNITED METHODIST CHURCH ADDITION**, located on the northeast corner of 101<sup>st</sup> Street North and Greenwich Road.

**NOTE:** This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The Applicant has requested a Conditional Use for a church.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 9. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection. **The applicant proposes to connect to rural water system.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. Minimum pads need to be established.**
- E. The Applicant shall contact Sedgwick County Fire Department. Onsite water for fire protection is required.
- F. An onsite benchmark is needed.
- G. County Engineering needs to comment on the access controls. The plat denotes one opening along both 101st St. North and Greenwich. **The access controls are approved.**
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. County Engineering has requested additional right-of-way along both arterials. The Access Management Regulations requires a 60-ft half-street right-of-way width along rural arterials. The Regulations also require a 75-ft arterial intersection right-of-way and an additional 25-ft x 25-ft corner clip at the intersection.  
  
**The street dedications have been provided as requested.**
- J. The Applicant is advised that if platted, the building setbacks must 85 feet from the centerline of perimeter streets to conform with the Zoning setback standard for County section line roads.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per

the direction and approval of the Chief of the Fire Department.)

- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**MITCHELL** moved, **WARNER** seconded the motion and it carried. (11-0)

**3-3. SUB 2005-39: Final Plat -- KIRK'S MEADOW ADDITION**, located on the northwest corner of 61<sup>st</sup> Street North and Maize Road.

**NOTE:** This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Maize Area of Influence.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan has been provided. The Applicant shall guarantee construction of drainage improvements prior to issuance of building permit.**
- E. **County Engineering** needs to comment on the need for defining access controls. The plat denotes one opening along Maize. **One access opening is approved with the location to be determined by County Engineering.**
- F. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The City Council certification needs to be deleted, as this is a County plat.

- I. An onsite benchmark is needed.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion and it carried. (12-0)

**3-4. SUB 2005-40: Final Plat -- THE WOODS ADDITION,** located east of 151<sup>st</sup> Street West and on the north side of Maple.

**NOTE:** This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family residential and will be converted to SF-5, Single-Family Residential upon annexation.

**STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. **An off-site drainage easement is needed. A HEC-2 run is needed. The drainage plan is approved. A drainage guarantee is required.**
- E. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- G. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the platlor's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and

public hearing will be needed in the future.

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's south property line and driving surface for Maple.
- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The Park and Pathways Plan indicates a greenway along Reserve C for a proposed bike path. Public access should be referenced in the plat's text as a permitted use in this Reserve or in the alternative the plat shall include a dedication of public right-of-way. **The Applicant shall contact the pipeline companies regarding the location of a bike path within the pipeline easement.**

A bike path easement has not been included within the plat. **The S/D Committee required a bike path.**

- L. **City Fire Department** needs to comment on the street length of City View Ct (950 feet) in Block B. The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length.  
**The Subdivision Committee approved Concept C as proposed by the applicant, which involves relocation of City View east of Lot 2 in order to conform with the street length standard.**
- M. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- N. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- O. A street stub should be shown to the west in order to provide for connection with potential subdivision of the adjacent property.  
**A street stub to the west has been provided as requested.**
- P. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- Q. An onsite benchmark is needed.
- R. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City of Wichita.
- S. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the

protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

NEIL STRAHL This plat was approved by the Subdivision Committee last week. There are two issues that are being appealed by the applicant today - street length and a bike path. As explained in Item L of the staff report, we have a cul-de-sac called City View Ct., and this is approximately 950 feet long, which exceeds the 800-foot limitation of our Subdivision Regulations. The Subdivision Committee reviewed two alternatives, Concept B and Concept C. Concept B would shorten the street; that would comply with the Subdivision Regulations and alter the lot layout at the end of the street. Concept C would involve relocating the street to this point right here, and that would involve two legs branching off, and that would comply with the Subdivision Regulations.

Traffic Engineering voiced their concerns at the Subdivision meeting about Concept C, due to sight visibility, since we have the entrance of the cul-de-sac located at the top of the curb right here, and a motorist stopping here would have some difficulty seeing traffic extending northward. Paul Gunzleman, the City Traffic Engineer, could not be here, however, we do have Julianne Kallman, the Assistant Traffic Engineer, available for questions.

The City Fire Department was in favor of Concept C at the Subdivision meeting. Bob Thompson, Battalion Chief Fire Prevention, is in attendance today to answer any questions.

Concept C was approved by the Subdivision Committee and the applicant is appealing that conditions.

The other item being appealed is in regards to a bike path and is explained in Item K in the staff report. Our Park and Pathways Plan indicates a greenway along Reserve C for a proposed bike path. This segment would connect Maple with 135th to the east. During the review of the preliminary plat, the committee also gave the applicant the option of locating the Bike Path within Reserve D. Reserve D is southeast of Reserve C, which encompasses a pipeline easement. A bike path easement has not been included within the plat. The Subdivision Committee required a bike path. To further explain the staff's request for the bike path we have Christy Askew here from MAPD, Advance Plans Division, who would like to address the MAPC.

CHRISTY ASKEW, MAPD Advance Plans Division I would like to review some slides of the area with you. The Park and Pathways Plan was adopted in September 1996, and within the Plan there was a goal to establish a network of linear parks and recreation corridors to improve proximity and accessibility to parks and to activity centers.

DUNLAP On both ends of this property is there a Bike Path existing today?

ASKEW No. Not at this time.

MITCHELL What are the realistic options of a connection to the east?

ASKEW The property to the south has already been platted, and the MAPC had turned down that request. The property to the north is owned by one person, and we project that there is so much development going into this area that eventually, at some point, that property may be subdivided, and then at that point we would see if the MAPC would give us an easement on that property.

DUNLAP There are members of the MAPC that have been contacted on this item, and I would like you to identify that and let us know if you have made up your mind.

WARNER Yes, I was contacted on this item and in no way will this affect my decision.

BARFIELD Did the Traffic Department say they were appealing Concept C?

STRAHL No, they are not officially appealing Option C, but they are here today to answer any questions.

PHIL MEYER, BAUGHMAN COMPANY, 315 Ellis, Wichita, KS 67211 Agent for the Applicant. Today I am going to tag team this presentation with the applicant. We are appealing the decision to do the bike path through there. One issue is the logical length of the bike path. We have an estate lot. It is one 80-acre plat. There is no immediate attempt for that person to be subdividing that. We have been in communication with them on drainage issues, and we know they are not looking to subdivide that, or sell that lot.

On the aerial that I passed out to you today, you will notice there is a lot of floodway/floodplain that goes through this area that is within that reserve. The feasibility of construction of a bike path in there is minimal. There is the standard concern that we brought

up at the Subdivision hearing of the liability that goes with the bike path. If there is an easement and they are riding through there and they get off and they drown in the lake or they get hurt, what is the responsibility or liability of the homeowners association? In this particular case, the City suggested that maybe they take it as a dedication. I would ask the MAPC if they took it as a dedication, which we don't want. Are the City and the Park Department truly ready to accept that as a dedication and maintain it to the standard that it should be maintained to as part of a Homeowners Association? The bike path is probably the least of the two issues that concern us, the cul-de-sac is more important.

JAY RUSSELL, MAPLE GROUP, LLC, P O BOX 75337, Wichita, KS 67235-5337 Applicant. If you will look at the aerial that we gave you that shows the layout of that piece of ground, everything to the north of it is in a floodplain/floodway area, of which we are not changing any of that area. We will stay outside and deal with the land outside of floodway.

So what it leaves us with is a small section of ground that is 200 feet deep X 1,000 foot long. We knew that we could design this addition per the Concept B, which would allow those two flag lots at the very north end, Lot 4, and Lot 5, but our thought was that the Fire Department would prefer to have their fire trucks 100-foot closer to those properties than to have to stop in that cul-de-sac and attack a fire from that location. That is the reason we request Concept A, which would extend that cul-de-sac up to the corner of Lot 4, and Lot 5. We believe that Concept A is better than Concept B. Then as we have talked to the Traffic Engineering Department about Concept C, their concern is more with sight lines and day-to-day safety. Our belief is that on a day-to-day basis Concept A is the best option. If the MAPC does not feel that Concept A is the best option we will accept Concept B, which does meet the Subdivision Regulations.

BARFIELD At the Subdivision Hearing the Fire Department said they would prefer Concept C, and your agent readily accepted that. Are you at odds with your agent on this?

RUSSELL That was not my understanding.

PHIL MEYER I have never accepted Concept C. I asked the Subdivision Committee to approve Concept A as we submitted on the plat. The Subdivision Committee made the decision to approve Concept C per the Fire Department, which was in conflict with the Traffic Engineer. The Traffic Engineer was stating that on a day-to-day safety point that Concept A, and Concept B were better traffic solutions. We have always asked for Concept A.

BARFIELD Phil, when you passed these out to us at the Subdivision hearing you did not say that you would accept Concept C?

MEYER No, I never said I would accept Concept C.

GAROFALO Phil, do you know what was the Fire Department's objection to Concept B?

MEYER The Fire Department staff member is here, and I would like him to answer that. At Subdivision hearing, Chief Thompson said he would accept Concept B, but Concept C was his preference.

MITCHELL Phil, what was the response of the pipeline company about putting the bike path on their easement?

MEYER I communicated with Jim Nolen with Conoco Phillips. There are four pipelines that run through that easement, a 16-inch, 12 inch and two 8's. He was not very excited about putting a bike path on top of that particular easement. He did not close the door completely. He did leave a little window of opportunity so that he could show that he was working with the City. I am not sure how we are going to put a bike path through that easement with those pipelines and maintain the safety requirements that we want.

MITCHELL I now have a question for Christy Askew on that same issue. Christy, if the pipeline company did permit the bike path to be placed on that easement, and it had to be destroyed in places to maintain and repair the pipeline, who would be responsible for the replacement and repair?

ASKEW I am not sure.

SCHLEGEL Since the pathway would be city property it would be the City's responsibility to do that. They would be granting an easement over their property for the City to do that. They have the right to go in and repair their pipeline. If they damaged a utility that has an easement under somebody's backyard fence, and they come in and destroy that fence, then it is the homeowners' responsibility to replace that fence.

ASKEW So the repair of the actual path would be the City's responsibility, but property on each side of the path is the property owners' responsibility to maintain.

MITCHELL So we are talking about the property owner, the pipeline company and the owner of the bike path will have a responsibility?

ASKEW Yes.

BARFIELD Phil, I want to clarify for the record, you and the applicant, even if the pipeline company were to agree to this bike path, you are opposed to a bike path even over that pipeline. Is that correct?

MEYER Between the two issues here today, the bike path, we are not excited about it. We really don't want it there because it complicates the homeowners association and makes things difficult. We are more concerned about the subdivision layout and the cul-de-sac. If the MAPC votes for a bike path we are not going to fight that very adamantly.

BARFIELD You stated the pipeline company was not eager about the bike path, but at the Subdivision hearing you did not mention that he closed the door, and today you say that he closed the door to the bike path.

MEYER I have stated the same thing today that I did at the Subdivision Hearing as close as I could get.

DUNLAP I heard you say that the pipeline company did not want to close the door on the bike path.

MEYER He did not want to close the door on the City of Wichita, but he is saying that the likelihood of them allowing that on that particular easement, with those particular pipelines, is not good.

ALDRICH Phil, how does a bike path compromise safety issues of a pipeline? Also, you mentioned the homeowners association, how would that impede on them?

MEYER The homeowners association is the ongoing debate, and one that has not been resolved to date. Is there a liability with the developer today and the homeowners association in five years with a public bike path easement going through their property? If someone falls, or drowns who is liable?

ALDRICH Again, there is no difference on that than going out and playing baseball, or football out on City owned park property.

MEYER But in the homeowners association you have the right to say on private property the public is not allowed, and you have at least made that attempt to tell people that you are not allowed in here. When there is a public bike path going through there that is different.

ALDRICH Again, we are looking at an easement?

MEYER Correct, that is part of the problem that you are looking at an easement. The pipeline company is going to require you to sign a hold harmless agreement with them, taking them off the hook before they even let the City of Wichita put a bike path in.

BISHOP Phil, for one thing there are currently neighborhoods, Towne Parc is an example, that do have public access, sidewalks, bike path, skating paths, through the homeowners association area. In fact, Towne Parc even has a tot lot that is part of the City's park system and the homeowner's association area is around it, and people's backyards open onto it. Perhaps we should have the Legal Department here and get a legal opinion.

ASKEW We spoke with the Legal Department today, and Doug Moshier, pretty much said that the City will provide an exemption to the property owner of any legal liability for the trail easement.

BISHOP Christy, my understanding is that drainage easements, and drainage areas, really serve as an ideal place-to-place bike paths and walking trails, correct?

ASKEW That is correct. According to what I have learned is that if you have a trail in a flood prone area, it is going to prevent other future damage of other structural property.

HENTZEN Christy, does the bike path lead anywhere on either end or is this just a bike path in the sky? Is it attached to any other bike path?

ASKEW There is a map in the Parks and Pathways Master Plan, and the whole point of the map is to try and interconnect the bike paths throughout the entire City and County.

DUNLAP While Commissioner Hentzen is reviewing the map, I think the answer is, no, it does not connect on either end to an existing bike path.

ASKEW It does connect.

DUNLAP It does connect? On which end? On an existing bike path? That is the question I asked before and I got a no answer.

ASKEW It connects over here to 135th Street.

DUNLAP Show me where it hooks.

GAROFALO How can it?

MCKAY Where is the bike path now?

ASKEW There is not an existing bike path right now.

HENTZEN That is what I asked.

ASKEW I thought you meant what is proposed.

DUNLAP No, not what is proposed, where is the existing connection today? There is not one on either end, is that correct?

ASKEW That is correct.

WARNER Christy, what are the odds that there will be one within the next 10 years?

ASKEW The Parks and Pathways Master Plan was developed to support the initiative of providing a trail system throughout the City and the County.

DUNLAP I would like to redirect our attention on the streets. We will have a motion here today that will include something about a bike path.

RUSSELL I am not an opponent of the bicycle system. I would like to see a lot of these different communities tied together where children can ride from Point A and Point B, and be safe in doing that. Currently, we are working on a project down south from MacArthur down to 63rd Street on a bike path, and it is all intermingled into the subdivision that we are creating.

We have a piece of property at 29th and Ridge Road and we have a railroad track that runs through there that basically would start at the Sedgwick County Zoo. You can come to the north on a paved street up to the railroad track and that runs all the way up to Maize. My idea was to go in and donate 10-foot of ground along all of the property that we own so we could put a bicycle trail in there. I spoke with Dale Miller and met with Jamsheed Mehta, and they came back and said the problem is that whenever you have a bicycle path that intersects in the middle of a mile line we don't have the ability to get the children across that street safely, so they were not interested. This is the same problem. You will have children on bicycles coming out in the middle of Maple or the middle of 135th Street.

I would like to have some consistency in the policy, so that when we as developers sit back and think of ideas that will work, we would like to see them go somewhere.

One more thing about the street issue. Normally on an 800-foot cul-de-sac you have 24-28 houses on it. That particular cul-de-sac that we have only has 10 houses. So we believe that rather than going with Concept B - the flag lots, it only has 10 houses. We think it is better to add another 150-foot to that, and get the fire trucks a little closer.

DUNLAP Is there anyone in the audience that would like to speak on this agenda item? Ok, we will restrict the comments to the Commission now.

SHERMAN I need to speak with the Traffic Engineer. Would you clarify for me the issue about Concept A, and Concept C, the issue with the traffic? I believe at the Subdivision hearing it was off of Burton that the concern was the sight line?

DUNLAP Do you have Concept A, B, and C with you?

KALLMAN Not with me but they are here.

DUNLAP So you know what we are talking about?

JULIANNE KALLMAN, Associate Traffic Engineer, Public Works Engineering The issue with Concept C, was if you pulled out southwards towards Burton you would have a hard time seeing cars coming from either the left or the right, because of the curves.

DUNLAP What do you anticipate will be the speed of traffic there?

KALLMAN The speed limit would be 30 mph.

SHERMAN Coming around that corner? They would take that corner doing 30 mph? Would that not be because you have such quick curves that it would be 10-15 mph at the most? Also, looking at the number of houses that you have off of Burton, what is the traffic count? I really do believe that Concept C would be better than Concept A, but we certainly don't want a day-to-day conflict with homeowners and traffic with children. I want to know the amount of traffic, the flow, and the speed of traffic. I don't know the name of the street that is coming off of Burton, if that is really an issue.

DUNLAP That would be City View Street.

SHERMAN I am trying to get clarity if that that is really a big issue, with the number of houses, and the amount of traffic, and the rate of cars, and the speed that they will be traveling. Even though you have two curves, and I guess you are saying they will have blind sights, are they blind sights, or are they just issues?

KALLMAN I do know that we get plenty of calls from other subdivision's where homeowners' feel that cars are coming around the curves way too fast. They are often asking for speed limit signs, or children playing signs, and they fear the cars are coming around the curves too fast, and they are not going to see their children.

SHERMAN But, the people who will be traveling, are residents of the subdivision, not traffic from the general public. Is Burton Street part of this development or is it outside of the development?

DUNLAP Phil, is this everything north of Burton Street?

MEYER Burton Street is an existing street that is out there today.

SHERMAN Is it part of this homeowner's association?

MEYER It is a separate homeowner's association. It is through the same developer but it is a separate homeowner's association and separate subdivision.

SHERMAN Ok, so it is not just general traffic passing through?

MEYER It is general traffic from the subdivision, and/or guest coming into the subdivision that goes through it. But just because you live in that subdivision, typically those are the people that are zipping through the subdivision, they get very comfortable with the curves.

BARFIELD Chief Thompson, at the Subdivision hearing I think you said you prefer Concept C, and I would like for you to tell the MAPC why the Concept C would work better for the Fire Department.

BOB THOMPSON, WICHITA FIRE DEPARTMENT, In looking at all three concepts, we took the information to the Operations Division of the Wichita Fire Department, and these are the folks that will have to respond to the area, and pull in the trucks, and work the fire. It was not just my thoughts of why Concept C would work better. Concept C worked the best for us because of the reduction in the length, and the other addition of the cul-de-sac: accessibility, getting in there and getting out of there. I understand what Paul Gunzelman was saying about the traffic, but for the Fire Department Concept C would work better.

SHERMAN Bob, can you live with Concept A?

THOMPSON Concept A was our second choice, and Concept B was not an option for our Department, so it came down to Concept C working best for the Wichita Fire Department.

#### **TAPE CHANGE TAPE 2 SIDE A**

MCKAY As far as Concept A, B or C, it is irrelevant at this point, because I haven't made up my mind. But, I would say that we have two city departments here that are not agreeing. The developer is saying he will go either way. Here we are trying to make a decision between the two city departments that can't agree. The Fire Department just said they could accept Concept A. I don't know that I have heard the Traffic Department say that they would accept Concept C.

THOMPSON I did speak with Paul Gunzelman, prior to the Subdivision hearing last week, and he had concerns about the traffic on Concept C, and I shared with him that Concept C was the best for our department, and even though he was not totally for Concept C, he said that he will let the Subdivision Committee decide for us, and that is the concept that we would go with.

BARFIELD I asked specifically staff at the very beginning when they made their presentation, if the Traffic Department was appealing Concept C, and the answer was "No". So I think basically that is saying they are willing to accept Concept C.

JOHNSON It appears that on Concept A the problem was the length of the road, and the cul-de-sac wasn't going to help but if I just understood you right, he liked Concept C because there was another cul-de-sac on the other end of the street that was going to help you. So I don't know how it can help on one end and it can't help on the other end.

THOMPSON In regards to the additional cul-de-sac it is always nice to have that for turn around purposes, and what we are experiencing now, with the newer vehicles, is that it is very difficult to turn around.

ALDRICH Is the main reason that you are looking at Concept C is because it is centrally located between the houses?

THOMPSON Yes, and it is shortened for us.

ALDRICH I think we also need to be looking at the safety of the pedestrians too.

SHERMAN Is the issue of 800 feet still on the table or are we as a Commission waiving that? That was the problem with Concept A and Concept B.

MCKAY That is what we are talking about.

SHERMAN I understand, but it seems like we have three issues, and they are in conflict. We have the Subdivision Regulations, the Traffic Department, and the Fire Department.

WARNER In my opinion we have a choice to make between two decisions, one is the 800 feet, Concept A. The other one is how critical do we think the problem is with the traffic flow on Concept C, that the Traffic Department was concerned about the curves, and seeing the traffic coming around those two curves. After listening to the testimony today, I voted one way at the Subdivision hearing and I am probably going to change my mind. I think the traffic is more important than the 800 feet, at this point and time.

ALDRICH Are there existing houses there?

RUSSELL No, there are no houses there.

ALDRICH Is it possible to split the difference on that entranceway and move that over?

RUSSELL Part of the reason is that over on Lots 17 & 18, those are the backyards of those houses. When you move it over on Concept C, you are driving between two houses, and the width of the entryway on Concept C, you will notice is fairly wide where the island is and then it narrows down. On Concept A, you have a more open, wider path all the way back and you are in the backyard of Lots 17 & 18 versus between the two on the other.

We would not even be here discussing the issue if we agreed to Concept B because that meets the Subdivision Regulations, and there would have been a conflict. We thought we were doing the Fire Department a favor by suggesting Concept A, and what the real issue is whether or not the Fire Department has to back their fire trucks up from the end of Lot 7 all the way back to there, or whether or not we propose to get the fire trucks closer to Lots 4 & 5 which is what they are going to have to fight a fire with. If it would help, we are willing to accept Concept B.

BISHOP Mr. Russell, why cul-de-sac's? This could be a round-robin.

RUSSELL About 10 years ago, Mr. Marvin Krout asked me to go to a seminar that he was putting on about how to design subdivisions that were safer and how to slow traffic movement down in them. In that seminar, the main thing that they emphasized was to try and do as many cul-de-sac's as you can because it limits the amount of people who drive down through there. Typically the only cars that drive down those cul-de-sacs are the homeowners that live there, rather than designing streets that run through the subdivisions. I think our risk on a day-to-day basis is more for our children than it is to worry about the Fire Department having to backup this street 600 feet, on a fire that may happen sometime, maybe.

BARFIELD Do we have an accurate traffic count for Burton Street?

JULIANNE KALLMAN No, I don't think so.

BARFIELD Can you give an estimate?

KALLMAN No, I don't even know how many houses are in that Subdivision.

**MOTION:** To approve Concept A and require the bike path as recommended by staff.

**WARNER** moved, **ALDRICH** seconded.

**SUBSTITUTE MOTION:** To approve with Concept A with no bike path requirement.

**MITCHELL** moved, **MCKAY** seconded.

BISHOP I know there has been a lot of discussion about is this bike path going to connect with anything, well it is never going to connect with anything if we never follow a plan that has been in existence for a number of years. I don't see a problem with going across 135th Street, which is not going to be as bad as Ridge Road for a number of years. I also believe that a bike path would be a nice amenity for the neighborhood and it is needed.

HENTZEN I am going to vote in favor of not requiring a bike path.

**SUBSTITUTE MOTION** FAILS (6-6).  
(BISHOP, ALDRICH, WARNER, SHERMAN, BARFIELD, GAROFALO opposed).

**SUBSTITUTE MOTION:** To approve with Concept C and requiring the bike path.

**BARFIELD** moved, **BISHOP** seconded.

**SUBSTITUTE MOTION** FAILS (4-8).  
(JOHNSON, ALDRICH, DUNLAP, WARNER, GAROFALO, MCKAY, HENTZEN, MITCHELL).

**ORIGINAL MOTION** carried (8-4). (HENTZEN, MITCHELL, DOWNING, BARFIELD opposed).

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**3-5. SUB 2005-52: One-Step Final Plat -- PRAIRIE BREEZE ESTATES**, located on the north side of MacArthur and west of Webb Road.

**NOTE:** This site is located in the County within three miles of Wichita's boundary. It is in an area designated as "2030 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan.

- A. Since sanitary sewer is not available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage. **A memorandum shall be obtained specifying approval of the proposed individual alternative sewer system from County Code Enforcement along with a maintenance agreement.**
- B. **The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, the Subdivision Committee has required connection.**
- C. **City of Wichita Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan has been provided. Terraces need to be removed. An off-site drainage easement may be needed.**
- F. **County Engineering** needs to comment on the need for improvements to perimeter streets. **The Applicant shall guarantee the paving of 39th St. South from Webb Rd. to the half-mile line.**

- G. The lots shall be renumbered and included within one block.
- H. All access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. The applicant shall guarantee the installation of the cul-de-sacs to the 36-ft rock suburban street standard.
- J. "S M" needs to be added to legend.
- K. The radius on the cul-de-sac should be 75'
- L. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed at the south end of both cul-de-sacs.
- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- N. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- O. **GIS** needs to comment on the plat's street names. **Phyllis Lane needs revised to Linden.**
- P. Reference to City of Wichita in the plat's text shall be deleted.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

STRAHL At the Subdivision hearing we had three residents in the neighborhood voicing their concerns. Those issues were in regards to the size of the lots, the Alternative Sewer System, drainage and water quality. As part of the plat approval the Subdivision Committee required connection to Rural Water District No. 3, if service is available. That means, no individual domestic wells would be allowed. Subsequent to the meeting I did have discussions with County Code Enforcement, and I was informed that a prohibition on the use of wells for irrigation purposes would be imposed.

BARFIELD I asked at the Subdivision meeting, I just want to see if anything has changed, has McConnell Air Force weighed in on this proposal at all?

STRAHL No.

DUNLAP We do have a Joint Land Use Program Plan with McConnell, but I think this falls outside of their immediate jurisdiction.

DOWNING No, it falls within the Joint Land Use Area, so it is a part.

DUNLAP I have been contacted by some folks in that area, and I have not made up mind and the discussion will not affect my decision today.

MCKAY I received a letter, and the letter will not affect my decision today.

ALDRICH I received an e-mail and the e-mail will not affect my decision today.

MITCHELL I was contacted as well and the contact will not affect my decision today.

KIRK MILLER, 516 S. Market, Wichita, KS 67202 We are in agreement with staff comments.

ALDRICH Would you be willing, instead of one-acre lots, to maybe increase that and split the difference on that?

KIRK MILLER My client is planning on doing one-acre lots, and I could not speak for him to go bigger. He looked at the financial feasibility of doing larger lots, and one acre lots is what he determined was the feasible size for him.

ALDRICH So the answer would be no?

KIRK MILLER Correct.

DUNLAP Is your client the owner of the property or a contract purchaser?

KIRK MILLER Contract purchaser.

GARY BECKWITH, 4207 S. Cypress, Derby, KS 67037 I live in the Heather Ridge Addition, and that is located directly to south and downhill from this proposed development. We are opposed to the size of the lots in this subdivision. We would prefer them to stay as 4.5 acre lots which matches everything, which is 4.5 acre lots or bigger from 31st Street to 53rd Street.

Most of the homes in the Heather Ridge Addition, which is going to be affected by this proposed subdivision, are on well water. That is a very critical aspect to us in this area. The well water in the area is not good and we do not have good supply, and most of the pumps are only running seven to eight gallons per minute. There are a number of wells that go through dry spells, which does cause a problem to us where we do lose water. A lot of residences have reported they cannot run the dishwasher and have a shower at the same time. We feel granting this plat of 28 one-acre lots with no restrictions to the groundwater supply of tapping wells is going to affect us critically.

There is Rural Water District No. 3 in the area, and some of the residences have that. I spoke with the Rural Water District office this week, without actual engineering they cannot say if there is a water supply sufficient to supply this development of 28 houses. From what they are saying they are very close to maximum, and they did give a count that there is only 80 meters available allowed to hook onto this system before it is maximized.

WARNER Mr. Beckwith, this was approved on the condition that everybody on these 28 one-acre lots hook up to Rural Water District No. 3., if service is available. I don't understand your point on the wells.

BECKWITH Was it available drinking water? If you read that, wasn't that they could still put a well in to get yard use water, correct?

WARNER I think staff indicated that there is a prohibition on that as well.

BECKWITH Are you stating that no wells can be drilled on these 28 one-acre lots? That would help as far as the water situation. We still have the size of the lot as to the area as to what we have. We do have 51 residences, on 5-acre tracts in the Heather Ridge Addition. There is one 10-acres zoned business, which is across the street from this proposed development. This week we did get an official City/County petition form to pass around the neighborhood to find out how all the neighbors felt. Out of the 56 we distributed we have 48 back opposing this size of one-acre lots.

We would like the MAPC to review the Joint Land Survey dated May 2005 before making a decision on this. As you are aware, the Joint Land Use Study was done between The City of Wichita, the City of Derby, Sedgwick County, and McConnell Air Force Base.

GAROFALO What it narrows down to is that you are mostly objecting to the one-acre lots?

BECKWITH Correct.

GAROFALO The water is not an issue?

BECKWITH Not now since it is a condition of approval that they cannot drill wells on that particular property. Then again it will fall back to the Rural Water District No. 3, which may not be there for them until they find out from engineering.

MCKAY I would like a clarification from staff, can they or can they not put wells for irrigation or something like that?

STRAHL County Code Enforcement informed me subsequent to the Subdivision hearing last week that they cannot put wells in.

MCKAY They cannot put wells in?

STRAHL Correct.

MCKAY They are required to connect to Rural Water District No. 3., if service is available?

STRAHL Correct, that is how the motion from Subdivision was quoted.

WARNER The motion was not "if service is available." If it is not available, they can't do it.

BISHOP I question whether that is the way that it reads. It says, "If service is available, the Subdivision Committee has required connection." It doesn't say that if is not available then they can't create it.

DOWNING I am sure at the Subdivision Committee meeting last week that the motion was, "That they must connect to Rural Water District No. 3. They cannot drill wells for household uses."

WARNER I made the motion, and that is correct, Commissioner Downing.

DOWNING I don't know about the language that is written in the Staff Report, but that is what happened.

MCKAY The question was asked by the previous speaker, "They can't put any well in at all?" The answer from staff was, "Correct, you cannot put any well in at all."

DOWNING That came up after the Subdivision Committee meeting.

MCKAY You said for domestic use, and I am saying even if they want to water their lawn.

DOWNING Yes, but the answer to your question came up after the Subdivision Committee meeting. At that time we did not know, nor did we specify that they could not drill wells for irrigation purposes. But as I understand staff now, that the County Code Enforcement staff added that they cannot drill wells for irrigation purposes, and those wells are prohibited. So the end result is that they can't drill wells period.

MITCHELL May we ask County Code Enforcement to address that additional prohibition, and the availability of water from the Rural Water District No. 3?

TIM C. WAGNER, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213 We have water well records of the wells that are currently out there. They are poor producing wells. The aquifer is fairly confined and has a very slow recharge rate. I have spoken with some well drillers, and they say the water is poor quality and hard to get quantity. Most of the wells run dry in the summer. You can't partially water your lawns, so we don't think it is worthwhile to allow any type of water well to be drilled on those lots.

DUNLAP Your testimony is, "No, water wells will be allowed to be drilled?"

WAGNER Correct.

DUNLAP Regardless of use?

WAGNER Correct. That will be part of our approval memo.

DUNLAP Regardless if it is external or internal usage to the house?

WAGNER Correct.

JOHNSON No, wells.

MITCHELL I also asked a question about the availability of water from the Rural Water District No. 3?

WAGNER I have spoken to Rural Water District No. 3, and they have to do a study, and they may have to add a new line, but County Code Enforcement is not aware that they are at full capacity.

DR. TOM ROCHAT, 9116 E. 39TH STREET SOUTH, DERBY KS 67037 It is my understanding that these properties were together as one 40-acre plot, and at some point years ago it was subdivided with this five acres coming off (pointing to a map). This entire neighborhood is five plus acre lots. There are reasons for that to be the case, and the reason I am going to address has to do with drainage on these properties.

Apparently the issue of drainage is a two-tier issue - one is the soil composition and issue two has to do with the grading of the properties. The soil composition of this area is clay, which does not absorb very well, but does allow water to flow off well. So if you have a leaking basement it is good to put on your foundation in order to drain the water away from it, but it otherwise does not absorb well. Approximately one year ago I had a lagoon problem. The company that did my lagoon was out of Goddard, came out and I was inquiring about alternative septic systems. His statement was that I live on the wrong side of town - that I have to live in West

Wichita in order to do that because they are more sandy over there. Here we have clay. I did replace the lagoon knowing that alternative sewer was not available to me given the nature of the clay soil.

The second issue is the issue of grade. My job as the property owner is essentially to drain this property. I am at much lower grade than the others, and approximately two months after buying my property in the fall of 2003, it was a very wet fall season, and my house appeared to be a house in the middle of a lake. I called several people to get opinions what to do. My basement had 1 1/2 foot of water in it, and there was water surrounding my house. I got very quaint answers from people that I called, and one even suggested that I attach helium balloons to the gutter and try to raise the house up. I contacted an Engineer who came to the property and explained to me that I had three issues going on at the property. Issue one was that I had a terracing of the subject property. Issue two had to do with grade. Issue three had to do with the soil composition being clay. He said you really have two choices, you can either try to work with the owner of the other 35 acres, maybe suing him to try and get him to put in more terraces, or you can create a swale system yourself. Do a bunch of excavating and do that, but that is going to be fairly expensive. So I then contacted an excavator, who created a \$4,000 swale system for me. So I now have swales, which are supposed to be gently sloping valleys that carry water away. When it rains heavily my swales roar like rivers.

The concern that I have about this development, my basement is dry. My neighbor to the east is not thankful for the new water that I have sent to them, but my problem is solved. If this development takes place, one of the plans is to remove the terraces. When these terraces are removed I will have a new influx of water. I talked to an engineer this week, and the mere fact that there are 28 houses there will greatly increase my water problem.

ROD STEWART, 9200 E 39<sup>th</sup> Street, I am the landowner east of Dr. Rochat. His swales have added so much water into our property that when we have a big rain the whole end of our property from one end to the other is a total river. My biggest concern, listening to the gentleman that was here early today is about water and how it drains into the aquifer. What is going to happen to us? If they put 28 houses on this development it will not allow enough water to flow down into our ground to help the people that do have wells. We did have a well originally when we bought the property, and we had rural water hooked up to our house. We have a business there. We board, train and show horses, and we have had to add the rural water into our barn so that we could have water for our barn, because our well just dried up. We are not opposed to having the land but we want it done in respect to the land, to the conservation of water, and to the residences that are already there.

MITCHELL Mr. Stewart, were your ponds designed by an engineer for an inflow/outflow ratio?

STEWART Yes. They were really meant for the land north of us to help to control the water right there and it flows into our property, and we are putting in a dry riverbed to help that flow so that it doesn't cut the ground to bad.

MITCHELL Have you given a copy of your engineered plan to the County Code Enforcement to consider in their analysis of the drainage of this subdivision?

STEWART No, I have not.

MITCHELL Would you?

STEWART Yes.

ALDRICH Do you know whether or not if there has been any efforts at all from the County to help elevate some of the drainage problems?

STEWART I think there is another gentleman here today that can answer that better than myself because he takes care of our roads. He used to farm all that area at one time, he even suggested at the time that they went to put in the 4.5 acres lots there to use larger culverts to allow the flow to flow better, and they did not take him for his word, so it doesn't runoff as quick as it should in some areas. We have a great system underneath the bridge but it just does not flow enough.

BOBBY JOHNSON 3707 S. Webb Rd. 67210 Our family property is this entire 80 acres. I farmed this property from 1980-1993. The terraces that were on this property were designed in the 1950's and were built by the federal government, along with the Conservation Office. They were designed to work that this whole area to drain in this direction and dump out in our meadow, and then drain down to the right-of-way and then down. When I farmed the property they worked correctly, I made sure of it, because when those terraces wash out you have gullies, low production on the farm. There is 250 acres of water that goes through that bridge on 39th Street, a lot of these developments out in this area I have seen, the County is real good about making sure that they get rid of their water quick, but when they do that they don't take into consideration of the people downstream from that and they cause all kinds of problems. I have been in this area since 1959.

DUNLAP Mr. Johnson, when you talk about getting rid of the water in a hurry, are you suggesting storm water retention ponds?

JOHNSON Something to keep from getting rid of the water quickly. Most of the developments that I see they cut through terraces, and don't take into consideration that they dump to a different location. Those terraces were designed to retard that water from rushing downhill.

ALDRICH Mr. Johnson, do you know whether or not there has been any effort at all from the County to help evaluate this problem?

JOHNSON The Conservation Office is who I dealt with all the time, and I made sure that all my terraces and everything worked, and I was in compliance with their standards.

ALDRICH So the answer to my question is that as long as those terraces are there then there is not a problem?

JOHNSON There is not a problem, however when you go to develop it, you need to take into consideration where the water has always run. What I suggest is that on the north end of that property is that they create a flat waterway from the top of that down to the drainage area. How quick the water gets to the bridge is the problem.

CATHY STEWART 9200 E 39<sup>th</sup> Street I am Rod's wife. We have 10-acres that are zoned for special use. I have a business there, Aces High Acres. I raise and board show horses. I want to share with you from past experience, what happens when a subdivision encroaches on livestock. I had a stable in Waco Township, and a subdivision was put in there, and children love to see horses run, and they throw rocks, shoot fireworks just to get the horses to run, and that doesn't seem bad until the horses run through the fence. It doesn't sound bad but then the kids climb the fences to chase the horses, and then it becomes a liability for me, and my customers. In the Waco Township, my property insurance increased because of property damage. I am concerned about this issue. One suggestion that I would have is to put a barrier wall around the subdivision; many of them do these days. Because those terraces on that property was not kept up, the water now runs from the west to the east, through Tom's property and then onto ours. Our property is eroded tremendously. I am concerned about the increased traffic of 39th Street, and the paving of the street, because I am speaking as a business owner of a horse facility, we don't like pavement.

**TAPE CHANGE TAPE 2 SIDE B**

WARNER Was the subdivision to your south there with you bought the property?

STEWART Yes, it was.

WARNER Those 30-40 residences with children don't create a problem?

STEWART No, all of those residences are on 5+ acre lots. We are talking about putting 29 homes on 34 acres. I think the influx of children in the area is going to be much greater.

LAREINA SAINDON, 8215 E. 39th Street South, Derby, KS 67037 When you asked if the properties in the other subdivision have children, yes we do have children, however most of those homes range from \$250-\$350,000. We are not looking at starter homes with small children. What is proposed for this one-acre section are homes that are 1,500 square feet or more. There is no amount proposed or larger homes proposed so we are looking at possibly starter homes, and we have not even heard yet if that could include mobile homes.

I would like to speak as a friend of McConnell Air Force, and someone had asked if McConnell AFB had been notified. At the Subdivision hearing McConnell had not been notified. I went home that afternoon and called the base. I am very concerned about the implications to McConnell with this development. I do not have any service representatives in my family that work at McConnell; however, my son is in the Army. McConnell has done a lot for the Wichita area, and they have a major impact on our economy. In May 2005, McConnell participated in a Joint Land Use Study, and that was concluded and was published. I am concerned that they have not considered this property in the Joint Land Use Study. The area goes all the way out to Greenwich Road. We are out of the noise contours, and we are out of the crash areas, however they did go to Greenwich Road for a reason when they did this study. My husband and I have spoken with Mike McKay out at the base, which was a part of this study, and Mike shared with us that McConnell's position is that they would prefer to have green grass from McConnell to Missouri, and we know that is not going to happen. They do understand that land is going to get developed around the base. Their position whether official or not is that they would prefer to see it developed as a low- density area. I know one-acre tracts are not considered high-density development. I also have concerns about the study, and there are the security issues, also the residential development. McConnell is not going to take an official stand on this because they are not going to tell land developers how to develop their land. However, Mike McKay cautioned the Commission to keep in the back of your mind when you are developing land around this area that you are in the Air Force's backyard.

ALDRICH What is the least amount of property size that you would support?

SAINDON We have no problem with the 5-acre lots in that area.

ALDRICH Would you be interested in compromising, like say 2 1/2 – 3 acre sizes?

SAINDON We would like to see the 4 1/2 – 5 acre lots. You are still looking at more homes and you are still looking at encroaching on the base with more population.

KIRK MILLER I think we have addressed the water situation, drinking water, irrigation water, we are fine with the restrictions. We have an approved drainage plan that has been approved by County Public Works. We met the zoning requirements and the adjacent zoning all around. It appears to be "SF-20". We concur with the staff comments.

BARFIELD The concern has come up about screening the area off, and I know that there is no policy that says that you have to do that, but is that something your client would consider?

KIRK MILLER Screening in what way?

BARFIELD Screening the subdivision off from MacArthur.

KIRK MILLER Like landscape screening?

BARFIELD I don't care.

KIRK MILLER He may be interested in doing something like that.

GAROFALO Obviously drainage seems to be a big issue with the residence there. I know you have an approved drainage plan from the County. How do you address the drainage?

KIRK MILLER The increase in runoff from current conditions to proposed conditions; you are putting in houses so there will be a higher "C" factor so your soil will not be able to absorb as much water, but the route that the run off will take by the time of concentration will be greater because it will be running around ditches, and that type of thing as opposed to a more direct route. The peak runoff from the site will be slightly less than the current because of the time of concentration. There are a lot of design issues that will have to be taken care of, how to cut the ditch and to size the ditch properly. Those are all design issues not drainage concept issues.

ALDRICH What is the drainage plan for that area?

KIRK MILLER The typical drainage plan will tell you what your drainage calculations are, and will show you the routes the drainage will go, and will show you the lot elevations and the lot corners.

BISHOP Condition C in the Staff Report says "The City of Wichita Water and Sewer Department request a petition for future extension of sanitary sewer and City Water services." Has that been agreed to?

KIRK MILLER Yes.

MITCHELL Is Mr. Weber from County Public Works still here? In your opinion does the drainage plan address the drainage issues that the adjacent residences have brought up this afternoon?

JIM WEBER, DEPUTY DIRECTOR OF PUBLIC WORKS FOR SEDWICK COUNTY The plat; these are the contours running kind of at this diagonal in here. The terraces that are there, first of all, the natural condition before 1959 was that every bit of water ran following those kind of lines; sheet flowed across the property. The natural condition is not to have terraces. In fact the natural condition would have brought every bit of water in here right through Dr. Rochat's property, which I suspect is when the terraces started to go into disrepair. It tried to go back to the natural drainage pattern.

When we do development on terrace properties we actually have more problems trying to retain terraces in a development than if we do if we take the terraces out, and then handle the drainage in the context of the street and drainage ditches, so that is what their plan is showing. Things will look different than they do right now, but we think the drainage plan has properly addressed the issues. What happens is that we have street systems that start now to intercept the water instead of the terrace system and they are more or less parallel to the contours in here, and both of them basically do that, and then route it to a central ditch system that comes in here. Instead of what Mr. Johnson has pointed out, wandering up and then coming into the natural drainage channel up in here they are going to come in here; they are going to move that entry point 600 feet or whatever it is. On this side over here there are floodway reserves dedicated across this property and across Mr. Stewart's property that would pick it up at either place, and bring it down here. This is a drainage easement that was taken probably because these are platting exemptions that were done before a 5-acres or anything under 20 acres would be required to plat.

The short answer is that their drainage plan shows that the peak rate of runoff from this property after this development is done is slightly less than the peak rate of runoff today. That is the standard that we work off of; when it starts to go higher then we start talking about detention ponds and those kinds of things. It depends a lot on lot sizes, and how the water gets routed. A cultivated field is not the best drainage condition, when after harvest and dry, that is the kind of predevelopment discharge that we are calculating; that is not a good condition. When you go and do development, if the lot sizes are large enough you put some impervious out there, and you also put a good lawn out there and that helps the interception of water down into the soil.

The short story is, we had a couple of comments on this drainage plan, that had more to with size of culverts under the entrances, and those kinds of things but we are satisfied with the drainage plan that they have submitted on this plat.

BISHOP Would you comment on the part of the staff report that says, "An off-site drainage easement may be needed." Is that what you were talking about?

WEBER What I am talking about is that comment was done before we figured out that we had a floodway reserve over here, but the point is that the channel is 50 feet over from the property line; that the issue was how do you actually make the physical tie-in from this point here, over to the channel if some grading needs to be done? It is in a drainage reserve, so it is essentially in a reserve in an easement, and that is really fine that the comment is in there but it is less an issue for us now than it was at the Subdivision hearing.

ALDRICH If the development is approved and you have a floodway reserve how will that affect the adjacent properties? Will it increase the potential for flooding or decrease it?

WEBER No, there should be no change. The discharge rate is remarkably close. It was 103 csf as opposed to 108 or something like that, and so given that this is already an area prone to flooding, and has already been identified as an area that would flood, and we are not increasing the discharge rate, I think the main issue physically that you would see is that when the work gets done that instead of some of this coming off the terrace system at the north, it is going to come off the ditch system down here.

ALDRICH So they are still going to have the same problem.

WEBER It will not fix their problem. Hopefully Dr. Rochat has his problem fixed, and maybe he can work with the developer and make sure if there are some tweaks that those things can happen during the development process. As Kirk Miller had indicated, we are at the drainage plan phase, which is a concept, and it is not a designed. So at some point there will be a road plan done, and a drainage plan done, and some of those details will get done at that point. We can't work that far ahead of the curve.

DUNLAP Should the traffic increase to the point where there is a petition of 28 residences to pave that road out to Rock Road, will the people on the south side also be assessed?

WEBER I think the requirement right now under the Urban Fringe Development Policy is, these 28 people will be signing a petition to pave from the ½-mile line back to Webb Road, the nearest arterial. They would not be included in another petition later on to go anywhere else.

DUNLAP The people on the south side from that development to Webb, are they going to be assessed part of the cost of the paving of that road?

WEBER Not unless they want to join in a petition to do so.

DUNLAP But the paving is going to happen?

WEBER The way the policy works is that the County will pay for half the cost of this ½-mile, the developer will pay 100% of the other half amongst these 28 lots.

DUNLAP So the people on the south side do not have additional cost and that road would be paved?

WEBER That east ½-mile, correct?

BISHOP I have a question of staff. My understanding is that this application area is within three miles of Wichita's boundary, so that means that this plat, if it is approved, will go to the County Commission for approval but it will also go to the City Council?

SCHLEGEL It will have to go to the City Council as well.

BISHOP But if the City Council for some reason rejected it, it would not happen?

SCHLEGEL I guess in theory that could happen.

SHERMAN I really would like to see this area not compromised and stay five-acre lots.

**MOTION:** To deny the plat.

**BISHOP** moved, **SHERMAN** seconded.

DUNLAP Having been a neighbor out there several years ago, we were all cautioned and very aware of being nice to McConnell, and we have recently escaped being put on the list for base closing, and I know that is not a reason to deny development, but I also feel that it will have an affect. The tighter we squeeze McConnell, the more likely they are to be put on the base-closing list someday. We are going through the problem with the people on the other side of the runway, and I don't want to see it happen again. I also went out there and looked, and that is the nicest area that I have seen in five-acre lots anywhere around here. I don't think one-acre lots fit in the neighborhood, so I will support the motion to deny the plat.

HENTZEN Is the present owner and the present zoning SF-20, how many structures could he put on that?

SCHLEGEL He could develop this at 20,000 square foot lots, under that zoning, so these one-acre lots are perfectly legal under the current zoning.

DUNLAP About 60 houses could be on there by right, not with this plat, but with the zoning.

BISHOP That is actually a failure of our planning policy rather than a reflection on this particular application. When the alternative sewer system was approved which meant that smaller than five-acre lots were possible, that needed to be addressed in terms of the density, and the leap frog development that would call for, and unfortunately as a Commission we chose to ignore that concern.

MITCHELL I am going to disagree with all of the previous comments. What we have tried to do with the alternative sewer system and with other planning initiatives is to increase density in areas that will be served by municipal services, and this petition already had been required. The petition to the City of Wichita for sewer and water will come, and it will come within a reasonable length of time.

With all due respect to McConnell, they have not taken an official position, and there has to be some limit on how far we sit and surmise what might or might not affect the future use of that base. So I don't see any basis for denying the use of this property for that purpose.

The three issues that were addressed by the adjacent residences are the size of the lots, the drainage, and the water supply. I think the drainage and the water supply have been answered. I think this is a good development, and I will not support the motion.

**MOTION** fails (5-7).

(**JOHNSON, BARFIELD, DOWNING, WARNER, MCKAY, MITCHELL, HENTZEN** opposed)

**MOTION:** To approve the plat subject to staff recommendations.

**BARFIELD** moved, **MITCHELL** seconded the motion and it carried 7-5.  
(**ALDRICH, DUNLAP, GAROFALO, BISHOP, SHERMAN**, opposed)

SCHLEGEL Dale, what is the recourse on having this Item heard at the County Commission?

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR Typically plats are not controversial and we do them on a consent agenda, so there is not an opportunity to speak. However, County Commissioners can ask to have Items pulled off the consent agenda if there is a recommendation from staff that it be placed open the regular agenda then we can do that.

SCHLEGEL That is what I will do. When we send this over to the County Commissioner we will place it on the regular agenda, and if people are there, it is usually the practice of the Chair to recognize people that want to speak.

PARNACOTT They would be given that opportunity, yes.

DALE MILLER We do not send the plats over so Jim Weber will have to remember to do that, once they leave our office.

PARNACOTT I am sure we will be well aware of this as it tracks through the process and we will get it on the regular agenda.

BARFIELD I believe one of the speakers say they had an 80% protest petition?

DUNLAP Yes, they have not filed that yet.

AUDIENCE We will in about five minutes.

SCHLEGEL Protest petitions do not count with platting. They are not valid. I mean you can register your protest with the County Clerk and City Clerk if that is what you want to do but they will not affect the vote of either the County Commission or the City Council.

DUNLAP It might affect it but it will not mandate it.

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**3-6. SUB 2005-53: One-Step Final Plat -- REMINGTON PLACE 4<sup>TH</sup> ADDITION,** located south of 21<sup>st</sup> Street North and east of Webb Road.

**NOTE:** This is a replat of a portion of Remington Place 3rd Addition which consists of the elimination of Reserve C.

**STAFF COMMENTS:**

- A. The applicant shall contact **Debt Management** regarding the need for submission of a respread agreement for existing improvements.
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- C. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- D. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- E. The parking easements should be located within a Reserve and shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves for this plat and for the subsequent phase of development. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. The 15-foot drainage and utility easements should be labeled as "street, drainage and utility easements".
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street, drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- I. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage

easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion and it carried. (12-0)

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**3-7. SUB 2005-54: One-Step Final Plat -- KRUG NORTH 2<sup>ND</sup> ADDITION**, located north of 21<sup>st</sup> Street North and on the west side of 143<sup>rd</sup> Street East.

**NOTE:** This is a replat of the northern portion of Krug North Addition. Five new cul-de-sacs are proposed resulting in four fewer lots. The site is located within the 100-year floodplain.

**STAFF COMMENTS:**

- A. Petitions have been provided with Krug North Addition for sewer, water, drainage and paving improvements. **New petitions are needed including sewer (main and lateral), water, drainage and paving improvements.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering requests a drainage plan.**
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. **County Engineering** has requested a guarantee for paving of 143rd St. to the north line of plat.

**The Subdivision Committee did not require this condition.**

- G. An onsite benchmark is needed.
- H. **Sedgwick County** requests annexation of 143rd St. by the City.
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. **GIS** needs to comment on the plat's street names. **Revised street names are needed.**
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- W. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion and it carried. (12-0)

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**3-8. SUB 2005-55: One-Step Final Plat -- MIDLAND BAPTIST CHURCH 2<sup>ND</sup> ADDITION,** located east of Ridge Road and on the south side of 45<sup>th</sup> Street North.

**NOTE:** This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "2030 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code**

**Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.

- B. In accordance with the Urban Fringe Development Standards the subdivider shall contact the City of Wichita to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, the subdivision shall be connected to Wichita's water system in accordance with City of Wichita standards.
- C. **City of Wichita Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. A cross-lot drainage easement is needed.**
- E. **County Engineering** has requested a guarantee for the paving of 45th N. from Ridge Rd. to 1/2-mile line. **In lieu of a paving petition, the Subdivision Committee required a No Protest Agreement for future paving of 45<sup>th</sup> St. North.**
- F. As drainage will be directed onto K-96, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- G. **County Engineering** needs to comment on the access controls. The plat proposes one opening along 45th St. North. **The access controls are approved.**
- H. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. **Sedgwick County Fire Department** advises that onsite water protection may be required.
- J. An onsite benchmark is needed.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. Reference to City of Wichita in the plat's text shall be replaced with Sedgwick County.
- N. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- O. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat tracing.
- P. Approval of this plat will require a waiver of the lot depth to width ratio. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The modification has been approved.**
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre

or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

BISHOP Neil we talked early about the drainage plan, and you have checked that it had been submitted, because my understanding from the staff report is that it says that the drainage plan needs to be submitted?

JIM WEBER, Sedgwick County Public Works The plan was submitted and we have requested some additional information after it was submitted.

BISHOP So you can assure me that nothing will proceed until an approved drainage plan is in place?

WEBER No plat will be filed.

**MOTION:** Approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion and it carried. (12-0)

**3-9. SUB 2005-57: One-Step Final Plat -- LILLIE ADDITION,** located south of Maple and on the West side of Maize Road.

**NOTE:** This is an unplatted site located within the City. A zone change request (ZON 2005-23) from SF-5, Single-Family Residential to GO, General Office has been requested. The Lillie Office Park CUP (DP-286) has also been requested. The site is located within the 100-year floodplain.

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. **City Water and Sewer Department** advises that the applicant shall guarantee the extension of City water to serve the lots being platted. Sewer is available to serve Lots 1 and 2, however in lieu of assessment fees are needed for connection. The existing sewer on the south side of lot 3 is 27" and therefore can not be tapped into for individual services. The applicant shall guarantee the extension of sanitary sewer for Lot 3.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes one street opening along Maize Road and complete access control along the remaining plat frontage. **The access controls are approved. Complete access control along McCormick Street is also requested.**
- F. In accordance with the CUP proposal, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- H. The Applicant shall guarantee the paving of the proposed street.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- K. The 25-ft setback along Maize does not coincide with the 35-ft setback lines that are required by the CUP.
- L. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. **Contingent on the CUP approval, the street right-of-way width of Maize Ct may be decreased to 58 feet with submission of a restrictive covenant prohibiting on-street parking and construction to a commercial street thickness or in the alternative be increased to the standard 70-ft commercial street standard.**
- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

**3-10. DED 2005-17: Dedication of a Utility Easement**, for property located east of Maize Road and north of MacArthur Road.

**DED 2005-17: Dedication of a Utility Easement for property located east of Maize Road and north of MacArthur.**

**APPLICANT:** Betty Evans, 9971 E. Sabino Springs Place, Tucson, AZ 85749

**AGENT/SURVEYOR:** Craig Moehring, Moehring and Associates, 433 S. Hydraulic, Wichita, KS 67211

**LEGAL DESCRIPTION:** Beginning at a point in the east line and 31.37 feet north of the southeast corner of Lot 1, Block B, Mid-Continent Industrial Park II, Sedgwick County, Kansas; thence N00°00'00" West along the east line of said Lot 1, a distance of 10.46 feet thence S72° 48'49" West parallel with the south line of Lot 1, a distance of 508.06'; thence S17° 01'11" East; a distance of 10.00' thence N72° 58'49" East, a distance of 505.00' to the point of beginning.

**PURPOSE OF DEDICATIONS:** This dedication is associated with a lot split case (SUB 2004-79) and is for construction and maintenance of public utilities.

**STAFF RECOMMENDATION:** Accept the Dedication.

**MOTION:** Approve subject to staff recommendation.

**MCKAY** moved, **JOHNSON** seconded the motion and it carried. (12-0)

❖ **PUBLIC HEARINGS – VACATION ITEM**

**4-1. VAC 2005-22: Request to Vacate Street Right-of-Way**, located west of Hillside and south of Central.

<b><u>APPLICANTS/OWNERS:</u></b>	Team Players, LLC c/o Mike Boyd
<b><u>AGENT:</u></b>	Baughman Company, PA c/o Russ Ewy
<b><u>LEGAL DESCRIPTION:</u></b>	That part of Reserve "B", the Maple Grove Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the southeast corner of said Reserve "B"; thence west along the south line of said Reserve "B" a distance of 12.04-feet; thence northeasterly a distance of 14.67-feet; thence south along the east line of Reserve "B" a distance of 8.5-feet to the point of beginning.
<b><u>LOCATION:</u></b>	Generally located south of Central Avenue and west of Hillside Avenue (Council District I)
<b><u>REASON FOR REQUEST:</u></b>	Part of a site to be redeveloped
<b><u>CURRENT ZONING:</u></b>	Site is a remnant of public ROW. Properties north and west of the site are zoned "GC" General Commercial and "B" Multi-family Residential. Properties east and south (across drainage) of the site are zoned "B"

The applicants are requesting consideration to vacate a remnant of Francis Avenue right-of-way (ROW) that was acquired by a taking in 1931; reference Ordinance 10-987, Misc. Book 98-278. A portion of Francis Avenue was located over portions of the abutting Reserves "B" and "F", all in the Maple Grove Addition. The portion of Francis Avenue over Reserve "F" was vacated March 2, 1966 (Misc. Book 575, Page 217), however that portion of Francis Avenue over Reserve "B" was never vacated. There are no uses listed in the plat's text for Reserve "B" or any of the Reserves in the Maple Grove Addition. There is a sewer line and a manhole in this portion of ROW. There are no water lines located in the ROW. The ROW abuts drainage on its south side. ZON2004-65 is associated with this vacation case. The Maple Grove Addition was recorded with the Register of Deeds July 10, 1886.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the ROW acquired by taking, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 19, 2005 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portions of the ROW and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the ROW, described in the petition should be approved with conditions:
- (1) Vacate that portion of the Francis Avenue ROW as described.
  - (2) Retain the ROW as an easement and, if needed, dedicate additional easement per the recommendation of Public Works/Strom Water and the franchised utilities.
  - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. If utilities are to be relocated retain the ROW as a temporary easement until all utilities have been relocated.
  - (4) All improvements shall be according to City Standards.
  - (5) Provide a restrictive covenant tying Reserve "B" to the larger site as referenced in ZON2004-65.
  - (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the Francis Avenue ROW as described.
- (2) Retain the ROW as an easement and, if needed, dedicate additional easement per the recommendation of Public Works/Strom Water and the franchised utilities.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. If utilities are to be relocated retain the ROW as a temporary easement until all utilities have been relocated.
- (4) All improvements shall be according to City Standards.
- (5) Provide a restrictive covenant tying Reserve "B" to the larger site as referenced in ZON2004-65.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** Approve subject to staff recommendation.

**WARNER** moved, **JOHNSON** seconded the motion and it carried. (11-0)

❖ **PUBLIC HEARINGS – ZONING ITEMS**

5. **Case No.: CON2005-15** Axis Iron & Metal Recycling Co., c/o Alvie & Laurie Campbell (Owner/Applicant); Moehring & Associates c/o Craig Moehring (agent) Request Conditional Use for a wrecking/salvage yard on property zoned "GI" General Industrial on property described as;

Lots 27, 29, 31, & 33, Block 15, Original Town of North Wichita Addition, Wichita, Sedgwick County Kansas together with Lot 2, Block 3, Bridgeport Industrial Park I, Wichita, Sedgwick County, Kansas. Generally located North of 33rd Street North and west of St. Francis.

**MAPC deferred May 26, 2005**

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a wrecking/salvage yard on a 1.77-acre platted tract located north of 33<sup>rd</sup> Street North and west of St. Francis. The applicant is currently operating a wrecking/salvage yard on the subject property in violation of the regulations of the Unified Zoning Code. The subject property is zoned "GI" General Industrial, and a wrecking/salvage yard may be permitted by a Conditional Use in the "GI" district.

The applicant submitted the attached statement and site plan that describe and illustrate the proposed use of the subject property. The applicant indicates that the subject property will be used for processing and recycling metallic scrap materials. The materials to be recycled will at times include farming equipment, aluminum tankers, and wrecked or junked semi trailers. The materials will be cut up or smashed into cubes and sorted for shipping to scrap metal buyers via truck and possibly rail.

The surrounding area is characterized by industrial uses. All of the properties surrounding the subject property are zoned "GI" General Industrial. Most of the immediately surrounding property is developed with office/warehouse type uses, with the exception of undeveloped land to the north, a drainage detention area to the east, and a vehicle repair business to the southwest.

**CASE HISTORY:** The subject property is platted as part of the Original Town of North Wichita Addition, which was recorded in 1917, and part of the Bridgeport Industrial Park I Addition, which was recorded in 1985.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GI"	Undeveloped
SOUTH:	"GI"	Office/warehouse
EAST:	"GI"	Drainage detention
WEST:	"GI"	Office/warehouse

**PUBLIC SERVICES:** The subject property has access to 34<sup>th</sup> Street North, a paved local industrial street, and St. Francis, an unpaved local street. Municipal water and sewer services are available to serve the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The subject property is located within the area covered by the General Urban Renewal Plan, which indicates that the subject property is appropriate for "Heavy Manufacturing." "Heavy Manufacturing" provides for those industries which are apt to have an extensive impact on the surrounding area and which may create considerable traffic volume, noise, dust, odor, blast, and smoke. The subject property is located immediately outside the boundaries of the 21<sup>st</sup> Street North Corridor Revitalization Plan and is adjacent to an

area where the 21<sup>st</sup> Street plan indicates that the preferred future land use is "General Industrial." The 21<sup>st</sup> Street plan indicates that rail dependent and heavy industrial uses are allowed in the "General Industrial" category. The request is consistent with the recommendations of the Comprehensive Plan, General Urban Renewal Plan, and the 21<sup>st</sup> Street North Corridor Revitalization Plan.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall authorize the operation of an wrecking/salvage yard for the processing and recycling of metallic scrap materials, including farming equipment, aluminum tankers, and wrecked or junked semi trailers. In no event shall the Conditional Use authorize an automobile wrecking/salvage yard or the storage or bailing of solid waste, scrap paper, rags or junk (excluding metallic scrap materials).
2. The subject property shall be entirely enclosed by a solid screening fence that is not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. The screening fence shall be a single, non-bright color. The screening fence shall be located south of the 35-foot building setback line along 34<sup>th</sup> Street North. Access gates are permitted in the screening fence at the points denoted on the approved site plan. The access gates shall provide solid screening, shall match the height and color of the screening fence, and shall have an automatic mechanism, which keeps the gates closed except for when in use.
3. The 35-foot deep area between the screening fence and the street right-of-way shall be landscaped with turf grass and trees. Trees shall be planted at a rate of one and a half times that required by the Landscape Ordinance for a landscape street yard. The landscaping shall be irrigated and shall be planted and maintained in general conformance with a landscape plan approved by the Planning Director.
4. An on-site parking area containing 13 parking spaces shall be provided and shall be paved with asphalt or concrete with a paved access drive provided to 34<sup>th</sup> Street North.
5. Except for the location of buildings, paved parking, and landscaped areas, an all-weather surface shall be installed on the subject property to prevent mud from being tracked off the property by vehicles.
6. Locking devices on access gates shall meet Fire Department requirements. Access to and within the wrecking/salvage yard shall be provided by fire lanes per the direction and approval of the Fire Department. The required fire lanes shall be illustrated on the approved site plan.
7. The applicant shall submit a drainage plan designed to minimize non-point source contamination of surface and ground water for approval by the City Engineer and Environmental Health Department. The subject property shall be graded in accordance with said drainage plan.
8. A revised site plan addressing the conditions of approval shall be submitted for approval by the Planning Director, and the subject property shall be developed and operated in general conformance with the approved site plan.
9. Scrap materials shall not be visible from ground-level view from abutting properties or street right-of-way.
10. Scrap materials shall be piled and stored in an orderly manner with an exposed perimeter or in bins as specified by the Environmental Health Department to prevent rodent harborage and breeding.
11. The applicant shall maintain at all times an active program for the eradication and control of rodents.
12. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
13. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by the Environmental Health Department and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Health Department.
14. Notification shall be given to the Environmental Health Department of any on-site storage of fuels, oils, chemicals, or hazardous materials. A disposal plan for fuels, oils, chemicals, or hazardous materials shall be placed on file with the Environmental Health Department. All manifests for the disposal of fuels, oils, chemicals, or hazardous materials must be kept on file at the site and available for review by the Environmental Health Department.
15. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
16. All conditions of approval shall be met no later than 180 days from the date of approval by the planning commission or governing body, as applicable.
17. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by industrial uses. All of the properties surrounding the subject property are zoned "GI" General Industrial. The proposed wrecking/salvage yard is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GI" General Industrial. A wrecking/salvage yard may be permitted with a Conditional Use in the "GI" General Industrial district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening and buffering the wrecking/salvage operation from nearby industrial uses.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The subject property is located within the area covered by the General Urban Renewal Plan, which indicates that the subject property is appropriate for "Heavy Manufacturing." "Heavy Manufacturing" provides for those industries which are apt to have an extensive impact on the surrounding area and which may create considerable traffic volume, noise, dust, odor, blast, and smoke. The subject property is located immediately outside the boundaries of the 21<sup>st</sup> Street North Corridor Revitalization Plan and is adjacent to an area where the 21<sup>st</sup> Street plan indicates that the preferred future land use is "General Industrial". The 21<sup>st</sup> Street plan indicates that rail dependent and heavy industrial uses are allowed in the "General Industrial" category. The request is consistent with the recommendations of the Comprehensive Plan, General Urban Renewal Plan, and the 21<sup>st</sup> Street North Corridor Revitalization Plan.
5. Impact of the proposed development on community facilities: The recommended conditions of approval pertaining to an all-weather surface, a drainage plan, fire lanes, and environmental compliance should limit any impact on community facilities.

SCOTT KNEBEL presents staff report.

DUNLAP About 3-4 weeks ago we had an application not to far from here located in the same kind of zoning. Is this a similar type of application?

KNEBEL It is a similar operation, yes.

DUNLAP If I remember correctly our recommendation was denial?

KNEBEL That is correct.

ROGER SHERWOOD, SHERWOOD & HARPER, ATTORNEY AT LAW, RIVERFRONT PLACE, 833 N. WACO, P O BOX 830, WICHITA KS 67201 I am representing the applicants. I don't think a month goes by that we don't read or hear something in the local media about the need for Wichita in regard to recycling. The general concept is why do we want to put material in a landfill even if it is in Harper Oklahoma, when we can recycle them.

I would say that for more than 25 years Alvie Campbell has been recycling material from other plants, Boeing, Reliance, the U.S. Postal Service, a number of businesses, and that is his customer base. He has about 30 different containers amongst the businesses and 20% of them are within one mile of this property. After he assembles them together, puts all the aluminum in one pile, he does the same with tin, iron, whatever it may be, and 80% of it is hauled one mile to Glickman, and then Glickman sends it somewhere else. It is recycled material and that is the whole purpose of his business, and he has been doing it for 25 years.

He as been at this location for several years with the understanding that he did not need a Conditional Use permit. The one process that caused the issue to come up was that he was cutting up an aluminum milk tanker, and that brought the whole issue to a head. The City staff is recommending approval of this application. I will simply say that if you have a recycling center, where else would you want it other then a General Industrial area? When you talk about "not in my backyard", it just doesn't seem to fit industrial, but obviously that is what we have here on these complaints.

#### **TAPE CHANGE TAPE 3 Side A**

We would submit that this is warranted and it is needed and this is a logical place to have this type of facility.

BARFIELD The 20% that is not trucked to Glickman, how is that removed from the site?

SHERWOOD By truck.

BARFIELD All of it by truck?

SHERWOOD All of it by truck, and the other part goes to other places, Mill's and such.

BARFIELD I noticed in a letter, here, that it says it would be removed possibly by rail.

SHERWOOD The rail facility is there, but they have not been using it. They have been trucking it.

ALDRICH There is an existing spur that goes by the property, but there is not an existing spur that goes in the property?

SHERWOOD That is correct.

ALDRICH Who owns that spur?

SHERWOOD I don't know.

ALDRICH I think that it might be privately owned, and I don't know whether or not you can get permission or not.

SHERWOOD Up to this point, they have been trucking it.

WARNER Are they in business at this location now?

SHERWOOD They are, and have been located here for five years.

LAURIE CAMPBELL, AXIS IRON AND METAL RECYCLING COMPANY (OWNER/APPLICANT) We were established in 1979. Our background includes information as far as we have been in business for over 20 years. We did submit for your packets, information about our business. Included in the packets are letters of recommendations from some of our customers.

We started looking for property in 1999 and we did approach the City of Wichita with each piece of property that we were interested in purchasing. Several of them, we were told that this property is not suitable for this operation. So after searching for two years, for hard to find "GI" General Industrial zoned property, we were told by the City of Wichita that this would be a perfect location for our business. We purchased our first section of land, which is Lots 27, 29, 31 & 33, in February 2003, and we have been operating there ever since. We recently acquired Lot 2, Block 3 in March 2005.

The reasons that we need to recycle metal are simple. We need to save energy, reduce waste, and preserve raw material. Steel is the number one recycled material in North America, and everyday Americans use enough steel cans to make a steel pipeline that would run from L.A. to New York City and back. In 1999, recycling and composting activities prevented about 64 million tons of material from ending up in landfills. It takes 80-100 years for one can to start to break down in a landfill.

We are not a salvage yard. We are a metal reprocessing center. We do not salvage automobiles and we do not have mountains of metal materials like Glickman does, for instance. What we are is small business owners, and we have under 2 acres of land that we devote to the receipt, separation, storage, and bailing, and conversion, and processing of recyclable materials, in preparation for market.

We had to apply for this permit because we recycle industrial-type metal, instead of just cans. We did consult with the City of Wichita before we purchased this property and they suggested that this would be a great location for our business. We did not go and invest \$100,000 in property without coming to the City first and asking where should we go and where should we do what we do.

There is a strong local need for our business, and we have over 30 local customers and are growing. We are well known and respected in this industry. We will be required to have an 8-foot solid fence around our property. Nobody is going to be able to see inside of our property. Where should we be located? We are in a "GI" General Industrial area and near local support business, and we are the only business on St. Francis Circle. We are well hidden behind all of these trees, and we are surrounded by a drainage ditch and heavy industry. We own all of the property from 33rd to 34th Street and this is where the City of Wichita advised us to go.

ALDRICH You said that you were advised by the City of Wichita that would be the best place to locate this business. Who did you consult with?

CAMPBELL I wish I had names. I don't have names. We started looking in 1999 for property and we approached the City. It had to be the Zoning Department because they brought the properties up by satellite, and they told us whether we could use torches, or what have you, there in that area.

ALVIE CAMPBELL We looked for property off of Topeka Street, and we looked at different areas for over 3 years. We approached the City every time we found a piece of property to see how it was zoned, and they said that was the best piece of property for our type of business since it was "GI" General Industrial.

ALDRICH Again, who was it you spoke with at the City of Wichita?

LAURIE CAMPBELL It was the Zoning Department. Unfortunately we don't have any names. We just assumed that when we asked the City, can we do what do here, and they said yes that would be a great area for you, we just assumed that we were doing the right thing.

ALVIE CAMPBELL They brought it up on a satellite photo and told us who owned it, and we approached the owners.

LAURIE CAMPBELL Because the properties that we did purchase were not initially even for sale. We came to the City and found out who owned those properties after the City said this was a good location for your business, and we approached the owners at that time. We negotiated with the owner of the first section of property for probably a year before we even purchased it from him.

ALVIE CAMPBELL Also, 80% of our material is processed and shipped out the same month. So it is not going to be like a big eyesore. That is how we make our living, by processing material. I bought my first truck from Milton Glickman and 22 containers, and we are well known by the community in recycling. I have over \$100,000 in machines to process this type of material, to uniform it to size where we can move it on to the next level.

BARFIELD Why is it that you haven't thought before of screening the property?

ALVIE CAMPBELL We had the small piece of property, and we just purchased this other piece.

LAURIE CAMPBELL We just purchased the other piece of property in March 2005, so we were not going to fence it. At that time was when it was brought to our attention that we needed a Conditional Use Permit. The Planning Department suggested that we don't spend a lot of money fencing it in until we get an approval.

BARFIELD What is the height of the storage of materials?

LAURIE CAMPBELL We won't be required to store it over 8-foot high, because our fence is going to be 8-foot high.

BARFIELD What is the height of your storage now?

ALVIE CAMPBELL Right now, it is at ground level. The building in front of us is a 40-foot building, and we have people all the time looking for our property. If you are facing the north, it is hard to see. Or, if you are looking at it from the east, you can't hardly even see it. The neighbors looking towards the south, they can see our new property, but they can't see our old property, because it is really hidden with trees and stuff. But, once we put an 8-foot fence up, it will be hard for anybody to see anything besides the top of the trees and the buildings behind us.

SHERMAN Can this be seen from I-135?

ALVIE CAMPBELL No, York is to the east; there is Love Box there.

SHERMAN You can't see anything stacked up?

LAURIE CAMPBELL No, not at all.

ALVIE CAMPBELL Everything that comes in we process within a month. That is how we make our living. We bring it in, separate, clean it and stack, and then it goes to the next customer.

MITCHELL Mr. Campbell, in looking at the 17 Conditions of Approval. It appears that Condition #13 and Condition #14 are things that you could have been doing in the length of time that you have been there. If we look at the picture that staff showed us earlier of your property, and compare it to the appearance of the slide that you have just shown us of your property, there is a marked difference. What would lead the MAPC to believe that now you would change your operation to the point that you would be then compatible with your neighbors?

ALVIE CAMPBELL At the time, we did not know that we were not in compliance.

MITCHELL I didn't say compliance, I said compatible. That is what they are upset about.

LAURIE CAMPBELL It is all going to be screened in by an 8-foot solid fence, and they will not be able to see in the property anyway.

MITCHELL You could have done that earlier.

ALVIE CAMPBELL You can't see into our old property right now, it is so well hidden with trees. And, we just purchased a new property. And, we were just waiting for all these steps to go into motion before we spend an extra \$10,000.

MITCHELL From your site plan, you would enter off of 34th Street?

LAURIE CAMPBELL That is a proposed area, in the future. Currently, we are on St. Francis Circle, and we are the only business own that entire area.

MITCHELL Would you be doing what is on the site plan within a reasonable length of time if this application is approved?

LAURIE CAMPBELL As far as putting up a building, we are not sure at what time we will put up a building. As far as off of 34th Street, we will fence it in immediately.

MITCHELL What kind of sanitary facilities are on the property now?

LAURIE CAMPBELL Currently we have a Johnnie on the Spot.

BARFIELD How many employees are there?

ALVIE CAMPBELL This is a family-owned business. I work with two brothers; I am second generation. And sometimes there is part time help.

GAROFALO I have two questions. The mystery people whom you talked with at the City, you say it was the Zoning Department. That would apparently be the Planning Department, but you were not advised by the City of Wichita that you needed a Conditional Use Permit at that time?

ALVIE CAMPBELL No, we were considered a wrecking/salvage because (of what) we buy. An aluminum can is no different from an aluminum sheet of metal from Boeing. But from buying from industries, that is what throws us into that bracket of wrecking and

salvage. We are not a salvage yard. We do not have cars. We are not a wrecking yard. The industrial scrap parts is how we are coming into the Conditional Use requirement.

LAURIE CAMPBELL We could recycle whatever we wanted there except for industrial scrap.

MILLER No, that is the problem we have had with this application all along. Once you bring in like an aluminum tank trailer or anything that is defined as being industrial scrap, you are not a recycling processing center. A recycling processing center is permitted by right in the GI district. It is my understanding that the reason we are here today is that when Central Inspection went out for inspection, they had material that does not met the definition of recyclable material. And that makes them a wrecking and salvage yard, which triggers the Conditional Use.

LAURIE CAMPBELL I didn't mean that we could recycle absolutely anything. What the City's definition of recycling is--cans, paper, and cardboard. When you bring in a big sheet of aluminum, that changes the whole story.

GAROFALO Are you in agreement with all of these conditions?

ALVIE CAMPBELL Yes.

GAROFALO You are telling us that you are going to comply with all of these conditions?

ALVIE CAMPBELL With a 100% compliance.

BARFIELD If they were just recycling aluminum cans, they would not need a Conditional Use permit?

MILLER Correct. If they fell under the definition of recycling processing center, it is allowed by right in the "GI" General Industrial as an outdoor use.

BARFIELD We could assume that if they approached someone at the City about just a recycling entity, they could have been told that this would not generate a Conditional Use; because they were not explaining their entire uses of the property, correct?

MILLER That could have happened.

ALVIE CAMPBELL No, I told them exactly that we use torches and I said I had a Mosley press which processes steel, and a Al-Jon press which processes steel. It has been three years ago, and I don't remember who I spoke to, and we have been there since 1999 when I first looked at the property.

MITCHELL Where were you located prior to the time you moved here?

ALVIE CAMPBELL We were using Kruse Corporation's back lot just for storage, and that is on Topeka.

MITCHELL Is that a licensed or approved, recycling processing center?

ALVIE CAMPBELL No. To store a container or park a truck, we wouldn't store no metal. We were just parking our equipment there. I was selling my material directly to Glickman's or larger iron yards at that time.

LAURIE CAMPBELL We started out with one truck and a few containers and we have grown.

LESLIE HICKS, 2230 Cardinal Drive, Wichita, KS 67204 My husband and I own the property at 3515 N. Santa Fe. Our property is on the northwest corner of 34th and Santa Fe. I did not see our property in the slides they were showing. I have brought pictures of other properties in the area, some of which they have shown and a number of which they did not. There is a picture of our building, and a picture of the egress/ingress they are doing on 34th Street over the curb and not following best management practices, with mud and dirt going down the drain during rains. There are also three pictures which show two separate Coke machines that were on property adjacent to their property, property that they were using. The Coke machine pictures show the compressors within those Coke machines. And, I will submit those for the record.

The applicant is seeking a Conditional Use Permit for what constitutes essentially two parcels of ground. One is located directly off of 33rd and one is located off of 34th. The second parcel is located in Bridgeport and that is the parcel I would like to discuss first.

In talking about Bridgeport, I would like you to know that we began in 1998. And in our negotiations with the City, it took from early 1998 until August 1999 to close on the property. The majority of that time we were dealing with the City, with specific people, and we had to assure the City that we would have a clean use. We would have no outside storage, no fencing. We had to specify what type of building we would build. We had to agree to landscaping, which is not typically a requirement of the area. We were told that we would need to agree to the following restrictions that were in place in the Bridgeport area. These restrictions were that none of the following things would be allowed: adult book and video stores, community correctional facilities, half-way houses, drug and alcohol rehab facilities, new or used car lots, multi-game casino style gambling facilities, and no commercial billboard siting. The reason was that the industrial area that we were locating in was to be quality business office, retail, and warehouse uses. They were not looking for any additional uses that would be other than retail incubator opportunities for warehouse and small manufacturing. The intent was to have a place that was compatible and clean. We were led to believe, by the City, that we were going to have an area that looked as nice as some of our downtown areas, in a parallel way. These are the same restrictions the City places on property sold within the downtown area.

It is a heavy industrial area; that is how some people refer to it. I would call it industrial neighborhood. It has distinct characteristics, and neighborhoods ought to be compatible to one another. We are located in an industrial area but we are there by right and not by special use.

During the early part of their operations--and we can see their property, we have been watching it for several years, our customers comment on it to us--there began to be large machinery, vehicles, scrap iron, and large barrels. These were not only on the original parcel that was purchased in 2003, but also alongside the retention pond and out onto the Santa Fe parcels. Eventually it began to creep onto the second parcel that was in Bridgeport.

We did have concerns about this property, and I did speak with the Office of Central Inspection. The inspectors had several problems in determining whether or not it was appropriate, and whether or not it was in violation. There was a question about whose property they were actually on. They were not always able to make timely inspections due to limited staff time. So, by the time that they would get out there, the things that we were concerned about being in violation would be moved. Because they often observed no work, they thought perhaps it was storage as opposed to an actual salvage operation. In January of 2005, I expressed extreme concern due to the obvious use going on at the property, and the way that it was spilling over onto the Bridgeport parcel. At that time, OCI went out and issued notification to the applicants that they were in violation. That notification went out in early February, and the applicants closed on (purchase of) their (second) property in March. I do think that since they have sent out a letter having people state how neat and nice their property looked, that it would be appropriate to have OCI submit those documents--those pictures that they took that showed the violation, and showed the overflow of their materials and the way in which it was stored.

I would specify, too, that they bought their first property in February 2003, and our concerns began not long after that because of what we could see. The second parcel closed in March 2005. By that time, they had been notified that they that they were in violation. I have heard them state twice that they had spent \$100,000 on the property. My research would show that they spent \$5,000 for the first parcel, \$60,000 for the second parcel.

I don't think we should be in the topic about whose business is more necessary. Businesses are necessary to all of us. I don't deny that we need recycling; I don't deny that there is a place for them. What I say is that we were led to believe, by the City of Wichita, that the uses in that neighborhood would be restricted. There were deed restrictions placed on some of those properties.

BARFIELD You said vehicles were on the property, being recycled?

HICKS They could have been work vehicles, but they were often parked right on the very crest of the retention pond.

BARFIELD In your opinion, where is the proper place for recycling facility?

HICKS You know, I would be happy to serve on a committee to find that. This is a problem. I am here today to speak what is appropriate for this piece of ground, not to help find a place for that business to go to.

BARFIELD If this were properly screened and not visible, would you still be in opposition to the operation?

HICKS Obviously, if this is going to be approved, we would want nice screening. To begin to say that "let's compromise" would negate the restrictions that have been placed on those properties in order to create a particular business park. It was to be a business park in an industrial area. This falls under the same thing that the 21st Street Revitalization Plan has now, where they want to move heavy industrial towards light-industrial flex use, to be interspersed with heavy industrial there. But the whole point of that study was that there is not enough space in the coming years for small retail manufacturing warehousing businesses.

WARNER You bought the property from the City?

HICKS Yes, we did.

WARNER See, these people did not buy this property from the City. What they did was go into OCI or Planning and investigate how the property was zoned and they found out how it was zoned. And, on that basis, they bought the property.

HICKS I do want to clarify, the restriction is not on the piece of land that they purchased, and I don't know why. When we were negotiating for our land in 1999, we were told that this was the way that it was going to go for all purchases in the area. I understand that the restrictions are not on their property. What I am saying is that the only way that they can use the land for what they purchased it for is to get a Conditional Use Permit. And I am saying in the evaluation of doing that, I think there needs to be stringent regard for what the City of Wichita has led numerous people in that area, over a long term period, to believe that area would be developed as. There was a deed restriction placed on there as recently as the sale of the property to the Hospital of Hope, which is immediately to the north and does not show on the slide. I agree they have a problem, but I don't think the solution of that problem is to allow a use that is not permitted by right into that area.

JOHNSON Have you seen the copy of the requirements that will be put on this use?

HICKS I have studied them.

JOHNSON By having the requirements, you don't think that will take care of some of the concerns you have?

HICKS Certainly with an 8-foot tall fence, you are not going to see the machinery and the scrap and the activity. By having a salvage operation, the City is certainly not encouraging the use of the property in the area for the business industrial park that it was designed to be. I think that it is not conducive to our property values to walk out and have an 8-foot tall fence of any material present; obviously that is not what was represented to us.

JOHNSON A Conditional Use in some respects, that would probably be better than having where they could go do it (by right). Because, if any one of these requirements are not met at any point and time, they will lose the Conditional Use and they will be gone.

HICKS I understand that is a risk.

JOHNSON Did you say that you cannot have any outside storage on your property?

HICKS Our agenda item submitted to the City Council says that we agreed not to have outside storage. It was typical verbiage, that outside storage will not be allowed.

JOE LANG, City Law Department This industrial park land owned by the City of Wichita was industrial land. Ms. Hick's property, as well as the property that the applicant now owns, was sold by the City of Wichita in 1999 along with a lot of the properties, with the types of conditions that Ms. Hicks talks about.

There are the deed restrictions and the other limits; the problem is those restrictions did not get put into the contract or deed on this particular piece of property. When this property was sold, the restrictions that the Wichita City Council approved was, among other things, no outside storage. Again, that did not get in the contract or the deed of the subject property. We have researched where the problem came from, and I think it was a matter of two different people working on contracts in that area and not aware precisely of what each other were doing.

Legally there are no contractual restrictions on this property like there are on the surrounding properties, which have all these restrictions that Ms. Hicks mentioned in her testimony. That is something that you are going to have to consider, what they are legally required to do but what the Wichita City Council thought they were going to be required to do.

BISHOP I am not exactly sure where some of the illustrations that we have seen are, but I saw fences and I saw outside storage on some of the slides today. Are they not in compliance, or are they also properties like metal fabricators?

LANG The industrial park that we are talking about here does not cover this whole area. For example, it does not cover the bottom little sliver of the applicant property. The subject property that we are speaking of is (showing on slide)--it was Bridgeport Industrial Park I. The general urban renewal requirements that everybody has to comply with up there, as the staff report says, their proposal does meet those. It is the individual requirements that were put on the individual parcels in this area that did not get put in their contract and deed.

HENTZEN Ms. Hicks, what is the zoning on your building?

HICKS The whole area is "GI" General Industrial.

HENTZEN The restrictions that Ms. Hicks has mentioned, are that she doesn't have or need?

LANG No, she does have those.

HENTZEN She doesn't have a Conditional Use?

LANG Right, she has deed restrictions.

HENTZEN What business is Ms. Hicks in?

HICKS My husband and I own Castle Door & Hardware.

GARFOALO Joe, would it be property or legal or whatever term you want to use, to place as conditions on this piece of property the restrictions that were put on the other pieces of property?

LANG That is one of those areas, "is it reasonable to do so?" The MAPC and the Wichita City Council have a lot of discretion on conditions when you approve a Conditional Use, but they need to be tied in to impacts on surrounding property. Now, a conditions prohibiting a casino, which is one of the conditions on their property, I don't know how reasonable that condition would be on this. The MAPC can impose conditions that make it a compatible use in this area to lead it to what the Wichita City Council and the urban renewal intent was for this area, but you have to balance that with what they are allowed to do by right. If they were not coming to you for a Conditional Use, they would certainly be allowed to a lot of other things that the neighbors are not.

WARNER If I understand correctly, just the north portion of this 2-3 pieces of property that they own would have been under this restrictions?

LANG It is about a 1/3 of an acre that is not urban renewal, and I think it was their property that they were talking about was an original purchase.

MILLIE DOLD, 3448 N. Emporia, Wichita, KS 67219 I am a board member of the Wichita Kennel Club. We own the property adjoining the subject property. We bought this building a couple of years ago, and we like the neighborhood, sitting off I-135 and K-96. It offers our members easy access to our office and warehouse. According to your own staff report, the applicant has been operating a salvage yard illegally for about 2 years on this small piece of land. Earlier this year they bought this much larger strip of land and it was found to be non-compliant. This second piece of land has set idle these few months, and no one knew about this until we saw the sign on the property. To give him a use permit for a salvage yard now, when he has been operating there illegally for some time on a smaller scale, I believe sends the wrong message. Our membership is appalled at the prospect of having a salvage yard next door. I have some pictures and a diagram for the record today and to share with you. This type of business does not fit in with the current structure of the office warehouses and small manufacturing companies in our General Industrial.

The Zoning Code recognizes this when it does not automatically allow salvage yards in General Industrial area. In your review, from the purple pass-out sheet on that table, it refers to the character of a neighborhood in considering zoning change. Years ago, this area was known as southeast Kansas' worst slum. The City and urban renewal stepped in and cleaned the place up, and asked small business to invest, and we have done so in good faith.

Allowing a salvage operation to operate in our neighborhood will stifle the growth and development and reduce property values. The applicants' site, as referred to earlier here, called for a 8-foot screening fence. I am sure that we have all seen screening fences around salvage yards here and in other parts of the country. They remind me of roofs in third world countries. Would you want that on the property next to your business?

There were fifteen entities on the ownership list submitted by the applicant. Twelve have, or are in the process of, submitting protest petitions. The other three, a representative of AB Crane across the street to the north spoke at the DAB hearing, the representative of Burlington Northern in Fort Worth, TX, who also represents the Atchison Line, has petitions forms and indicated an interest in filing protest petitions and that they do not like salvage yards abutting their properties. We ask that you do not approve this request.

DUNLAP Why is AB Crane not colored here on your diagram.

DOLD He spoke at the DAB meeting, and he had a protest petition and the owners, his parents are out of town.

BILL KENNY, 1502 N. BROADWAY, WICHITA, KS 67214 I have lived in the north end of Wichita all my life. About five years ago, I went to look at that property for investment and I did a great deal of research on this. The first thing I checked was the zoning. There are salvage yards and various wrecking yards on both sides of the street and I have never been particularly impressed, but it is getting better I will admit.

There were some buildings on 37th Street that had existed prior to the conversion. Everything else was all new with warehouse offices and various small manufacturing on the north side of 37th. I did decide to invest, and I bought on Emporia just one block west, across the street from the Kennel Club. I also built another one next door to that, and then on 3610 N. Topeka. I have a couple of businesses, 6,000 and 12,000 (square feet). The larger ones have air conditioned warehouses. I built deluxe buildings. And they are drivin on the outside, and have nice offices, coffee bars and restrooms inside, etc. So, I really tried to live up to the area that I thought I was moving into. If I had any idea this operation would have located here, that would have had a detrimental affect on my decision. And, frankly, I would probably not be there. I now have these structures, and I have some \$820,000 of my money invested, and this operation will have a negative affect on my being able to rent first class buildings to people.

#### **TAPE CHANGE 3 SIDE B**

I appreciate you listening and request that you do not approve this request.

FRED WISE, FACILITY MANAGER, YORK INTERNATIONAL/EVCON, 3110 N. MEAD, WICHITA KS 67219 York Industries is adjacent to the subject property to the east, past the railroad spurs, which, by the way, those spurs are owned by Burlington Northern Railroad. One of those is used by Love Box Company and the other is used by Safety Clean. They pull tankers on there and bring bulk trucks up, fill the tankers; and it is really not an occupied site.

A few weeks ago I addressed the MAPC about the other salvage yard request, and my views are the same. We have spent a lot of money on landscaping and beautification of our property, and appearance is very important to us. We did not realize that we had a neighbor of this type until less than a year ago when they did start to expand to the east. And then the trucks, the containers, and the scrap material became very apparent. As soon as you leave Mead Street and get onto 33rd Street it is what draws your attention, and you look directly at that area and it is an eyesore.

DUNLAP Would you remind us again the employment at your factory and the visitors you have.

WISE Our employment in peak season, which is this time of year, is about 1,400 people. In the last 3-5 years we have become a sales tool for York International. We have 2-5 tours per week and these are people from all across the country, and we have international clients or potential clients that we bring into this facility. We spent about \$450,000 on landscaping within our property that you cannot see from the street, and one of the main purposes of that was to use as a selling tool and beautify our process.

DUNLAP What is your position with York Industries?

WISE I am the Facility Manager.

LEONARD HICKS, 2230 CARDINAL DRIVE, WICHITA, KS 67024 I own the parcel at 3515 N. Santa Fe with my wife. We were under the impression, when we purchased this property, that this type of business would not be permitted, and we were told that we would not be permitted to have this type of proposed operation. When we purchased this parcel in Bridgeport, we were told that the boundaries were going to be (points on the slide).

The first piece of property that they own, we have seen that activity going for a couple of years, but it has been back in the trees and out of sight. For the last year, it has become more visible in the right-of-way of the street. North St. Francis is not paved going into their property and that should be one of the Conditions of Approval. If they are going to run trucks and trailers into that property, that needs to be paved from 33rd Street into their property; the circle needs to be paved.

Right now they are using for storage facilities, up until a week and half ago, they had storage all over out there. We took pictures, which are being submitted as part of the record today, of the Coke machines that had compressors in them, and probably had freon in the compressors. And we were told that day by the applicant, at the DAB meeting, that the Coca Cola Company does not give them the machine with the compressors in them. This is a federal violation if they do not have a permit to remove freon, and there were no tags on the machines.

I was not concerned about the first parcel they purchased because it was outside of Bridgeport, until it started encroaching on the street right-of-way and down in the flood basin we have out there. I have watch them, day after day, drive back and forth with salvaging trucks off the bank, and we never knew who owned the property over there, but evidently it is the railroads or the City, but it is not their property. It took us about 1 1/2 years to convince the City of Wichita that we were not going to be a neighbor that would be trashing the area and would comply with the Urban Renewal.

If they have 25 years in the recycling business, they ought to know the requirements, and what permits they have to have. I don't mind a salvage operation, but I don't like a crummy looking fence and junky looking place. This property just got mowed this week and that was the first time this year and we are in June.

ROGER SHERWOOD, ATTORNEY FOR THE APPLICANT I had Security Title Company double-check the records yesterday and there are no deed restrictions, and there are no restrictive covenants on this parcel. And there is nothing to prevent the operation in that regard. There is no car and truck salvage there, and there never has been; that is not my clients' operation. This is not a salvage yard in the traditional way of thinking of the word salvage yard.

This is a "GI" General Industrial zoned district, and I don't know if you want to call it the top of the line or the bottom of the line of the zoning line, but it is at one extreme. And it is at the extreme that you would think that this type of operation should be placed. If you can't put it here you can't put it in a lighter district, this is a "GI" General Industrial zoned district, and that is why this business and the other businesses are located there.

As stated by MAPD staff, in the staff report, the subject property is located within the area covered by the General Urban Renewal Plan, which indicates that the subject property is appropriate for heavy manufacturing. Heavy manufacturing provides for those industries which are apt to have extensive impact on the surrounding area and which may create considerable traffic volume, noise, dust, odor, blast and smoke. That is the area that this operation is located in.

The reason that they did not have a fence up there already is because they thought they were exempt from that requirement because that is part of what is required for a Conditional Use Permit, and it is not required for a recycling center. My clients have stated that they will comply with all of the Conditions of Approval for this Conditional Use Permit. The Coke machines are delivered to them after they have been drained of freon, by Coca Cola. They also give them the aluminum cans.

ALVIE CAMPBELL I have heard testimony today that my operation is out of character with the surrounding area businesses. All the way down through here is nothing but steel fabrications centers, with open chain link fence. There is over 5 million tons of waste metal just in these places. We service almost every business in this area, and for them to say that we are out of character with the surrounding area, somebody needs to drive down Topeka, and drive down Broadway. I think we fit perfect in the area for what type of operation we have.

ALDRICH I have gone over and looked at the area myself, and I have several concerns. One is the water retention area that is a bit of a low lying area right there, and for that type of product they get in there, I have concerns about contamination possibly in that area. Also, the other businesses are nice and it is a very clean area, and I was impressed by that area, I don't believe that this operation is conducive to the rest of the businesses that are presently in that area. This application was reviewed by the DAB VI and the DAB recommendation was for denial of this application.

BISHOP This is a difficult case. The fact that a number of the businesses in that area, and it is taken me a while to get a handle on what the configuration is, reminds me of going to a restaurant and asking for a no smoking section and being shown to a table in the middle of the restaurant when the smoking section is all around you. I don't know that we can resolve that. This is not, strictly speaking, a land use issue. If you are not going to put a business of this nature in a "GI" General Industrial area, I don't know where you are going to put it, and there is a lot of heavy industrial along that area and not very far away. At this point, barring the rest of the discussion, which I am going to listen to with an open mind, I am leaning towards approval of the application.

JOHNSON Mr. Schlegel, do you know how long the City of Wichita has owned the urban renewal property?

SCHLEGEL I would have to consult legal with that questions.

LANG About 1960s or 1970s.

JOHNSON How big of an area was that when the City of Wichita acquired that? How many acres?

LANG The City of Wichita, and before it, the Urban Renewal Agency, acquired a significant amount of land up in the Bridgeport area and it was not all consolidated; it was scattered.

JOHNSON The parcels that you put the restrictions on, how big of an area was that?

LANG I don't know how broad the restrictions, how far they extend, but the City of Wichita owned land (points on the slide).

JOHNSON How much of the land is still available, compared to how much has been sold? Is it 3/4 used up, or 1/2 used up, or does the City of Wichita have quite of bit of property?

LANG The City of Wichita has been developing individual tracts, Industrial Park I, Industrial Park II, so forth. I don't know overall. The last time I looked at the ownership, it has been 15 years ago, as to what the City of Wichita still owned up there.

DUNLAP The vast majority of the property has been sold. There may only be one or two small pieces left and they were over in Bridgeport, over on Ohio Street or north of 37th Street. I think the last one north of 37th Street on the northwest corner of that Bridgeport Circle up there has been sold.

JOHNSON Scott, if this approved will this application go to City Council?

SCHLEGEL Only if it is protested.

KNEBEL Commissioner Johnson, the handout from Millie Dold with the pink highlighted parcels, of properties protesting, if those are turned into the City Clerk, if they are sufficient, then Legal would send it to City Council.

BISHOP Would they need to be turned in again?

KNEBEL Yes, I have given back to the speaker to turn in after the action of this Commission.

JOHNSON This is a no win deal no matter what we do. When the City of Wichita has told one group of people something and they don't have the coverage of the land that they can't do it, and the other people have the restrictions and they can't do it, it is a no win deal. I am going to support staff because I am sure this will go to the Wichita City Council and they get paid to make this decision.

ALDRICH I have the feeling that something fell through the cracks here, or otherwise there would have been conditions that were set forth on this property has. It was set forth on the other surrounding properties out there. I am inclined to deny the approval of this application.

MITCHELL Mr. Sherwood, would your client agree to put the deed restrictions that the City of Wichita imposed on the first sale of the Bridgeport portion as a Condition of Approval for this application?

SHERWOOD One of those deed restrictions is no outside storage. I think that would mean that they would not be in business.

MITCHELL What I am asking, would you impose the same conditions that were imposed on this parcel when the City sold it.

SHERWOOD If we can't have fence, and we can't have storage, I am not sure we can agree to that.

MITCHELL What it would mean is that they could not use that portion of their land for the business that they are operating on both parcels.

SHERWOOD I am not sure I understand your question, but if you are asking would they agree not to fence the northern portion, and if they agreed not to store anything on it, I am not sure what they could do with the property.

MITCHELL They could sell it to someone else with the same use.

SHERWOOD If you are asking would the applicants agree to sale the land, I guess they will have to sell it if this application is denied; there is nothing else they can do.

MITCHELL What I am after would be to let them operate on the property where those conditions were not imposed by the City.

JOHNSON They were not imposed on any of it.

SHERWOOD They were not imposed.

MITCHELL I am not sure I agree with that.

SHERWOOD There are no deed restrictions.

MITCHELL But there was on the parcel they bought when it was sold by the City?

SHERWOOD No, not for this parcel. If they can't put up fences and they can't store anything on it, why would they even want it?

MITCHELL It would make it compatible with the lots adjacent on the east, west, and north.

SHERWOOD I don't know. They can't afford to put in a 200,000 square foot building to hide all of this activity in there; that is impractical.

DUNLAP I operated a business in that neighborhood for several years, not exactly in there. I tried to buy land in Bridgeport and the City of Wichita denied me the opportunity to buy the land because I could not use it for outside storage and could not fence it. So my property is not there today because the City told me that I couldn't do it.

Bridgeport to me was described like it has been to everybody else from Topeka east, not from Topeka to Broadway. The section from Topeka to Broadway and on the west side of Broadway is industrial and is not a part of Bridgeport and therefore not subject to the same restrictions.

It was described to me that it was from 33rd Street, which doesn't exist really or half way between 33rd and 34th north all the way to 37th, and east all the way to I-135, and north of 37th Street, and east of the Bridgeport Circle over on the northeast side. The same restrictions applied to all of that. I tried to buy 3 pieces of property, and like the other people, I dealt with the City for a long time and I finally gave up. Trying to get the Planning Director at that time, not the current one, to agree that outside storage was decent. I could not even buy other property because of the restrictions that were put on it, and it was heavy industrial. And, I did not need that, I needed "LI" Limited Industrial. And so I understand the problem of the people who bought the property with the idea of what kind of a business park they were going to have; it was not to be heavy industrial with outside storage and fencing. It was to be

industrial that did not include that. I believe it was the intention of the City Council to include all of Bridgeport in that. I don't think they understood where Bridgeport was and I would say that the same thing that Commissioner McKay said last time, we spent 35 years cleaning this area up, and to turn around now and return to where we were is not what we intend to do with that area. We denied a similar request in the same neighborhood not more than 3-4 weeks ago for the same reason. I am not going to support the approval of this application.

BARFIELD I remember when we considered the other salvage yard, one of the first statements you made was if we can't put it in this area where can we put it?

DUNLAP I still agree with that, we can't put it here and be fair to the other people who have invested in the other properties, which is the decision that we arrived at that last night.

JOHNSON These are two different cases. The problem I had with the other application was that you could see it from I-135, and everybody that came into this town got to look at it. This case, you can't see it, and that is the difference between the two cases.

**MOTION:** Approve subject to staff recommendations and let City Council work it out.

**JOHNSON** moved, **BISHOP** seconded the motion.

JOHNSON The other reason I am recommending approval is that since this is a Conditional Use where there are restrictions of what they can do, and I hope the applicant will abide by them strictly because he will have people watching him.

**MOTION carried 6-5. (DOWNING, ALDRICH, DUNLAP, MITCHELL, SHERMAN, opposed)**

6. **Case No.: CON2005-13** – Furley United Methodist Church Request Sedgwick County Conditional Use to permit a church and its associated outdoor recreation uses on property zoned on property described as;  
"RR" Rural Residential on property described as;

Beginning at the Southwest corner of the Southwest Quarter of Section 15, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence running North along the West line of said Southwest Quarter a distance of 248.71 feet; thence East parallel with the South line of said Southwest Quarter 248.71 feet; thence South parallel with the West line of said Southwest Quarter 248.71 feet; thence West along the South line of said Southwest Quarter 248.71 feet to the point of beginning.

TOGETHER WITH

A tract of land in the West Half of the Southwest Quarter of Section 15, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, Commencing at the Southwest corner of said Southwest Quarter; thence N 00 degrees 00'00" E (assumed) along the West line of said Southwest Quarter for 248.71 feet to the point of beginning; thence N 00 degrees 00'00" E for 364.58 feet; thence S 89 degrees 05'56" E for 421.77 feet; thence S 00 degrees 00'00" W for 612.32 feet to the South line of said Southwest Quarter; thence N 89 degrees 05'56" W along the South line of said Southwest Quarter for 590.47 feet; thence N 00 degrees 00'00" E for 248.71 feet; thence N 89 degrees 05'56" W for 248.71 feet to the point of beginning. Generally located on the northeast corner of 101st Street North and Greenwich.

**MAPC deferred April 28, 2005**

**BACKGROUND:** The applicant is requesting consideration for a Conditional Use to allow a church on property zoned "RR" Rural Residential. The site will also include a soccer field, a baseball field, a basketball court, three volleyball courts, a concession stand, a barbeque pavilion, a fishing pavilion and a picnic pavilion. The applicant proposes to develop the church in two phases and has provided a site plan showing the two phases of development and the location of all the playing fields and accessory structures. Churches are permitted by right in all residential zoning districts, except the "RR" zoning district, where they require a Conditional Use.

The above-mentioned playing fields are considered outdoor recreation and entertainment uses under the Unified Zoning Code (UZY). The UZY defines outdoor recreation and entertainment as a privately owned establishment offering recreation, entertainment or games of skill to the general public or members wherein a portion of the activity takes place in the open. A Conditional Use is required for outdoor recreation and entertainment in the "RR" Rural Residential zoning district. The UZY indicates that a Conditional Use for outdoor recreation and entertainment shall be limited to a use that the Planning Commission has determined will not produce undue noise or attract large numbers of spectators. The concession stand, barbeque pavilion, fishing pavilion and picnic pavilion are considered accessory structures for the outdoor recreation and entertainment uses and the church.

Section III-D.6.o. of the UZY (attached) indicates that a Conditional Use for outdoor recreation and entertainment shall comply with six Supplementary Use Regulations. The Conditional Use request appears to conform to them. The UZY Supplementary Use Regulations for a Conditional Use can only be waived by the Board of County Commissioners upon receiving a favorable recommendation from the Planning Commission.

The site plan's two phases of development for the church shows the initial development of a 7,600-square foot church building with a proposed 180 seats in the sanctuary and 136 seats in a fellowship hall. The second phase shows an additional 6,000 square-feet added to the church, with a new total of 436 seats in the sanctuary. The UZY requires a total of one parking space per four seats for a church or a total of 109 parking spaces (the Phase II total) for the sanctuary and another 34 spaces for the fellowship hall, for a total of 143 spaces. The UZY requires a total of six disabled parking spaces. The proposed parking layout shows 160 parking stalls, including four disabled parking stalls. The second phase of development will take away a minimum of 14 parking spaces, which

leaves 146 total spaces, which meets the UZC requirement. Two more disabled parking stalls are required to meet the UZC requirement.

The applicant proposes that the playing fields will be open to the Furley area community as well as church members. It is not certain what the frequency of their use will be, but the applicant has stated that they will not be used at night. The site plan shows no seating around the playing fields and the applicant has indicated that no seating will be erected. Section IV-A.4. of the UZC requires one parking space per three spectator seats, one parking space per 1,000 square feet of field area, plus one parking space per 250 square feet of office area. Based on the fields' area alone, the parking requirement for the proposed sports fields would be 105 parking spaces. The proposed parking for the church, when Phase II is completed, is 146 seats. If the playing fields are not in use during church services, the proposed parking would be enough for the playing fields, minus the one parking space per three spectator seats and the one parking space per 250 square feet of office area. Parking requirements can be reduced either through an administrative adjustment or through the approval of a Variance by the Board of Zoning Appeals. The site plan shows a landscape concept with trees located along the east interior side and the north interior side. No landscaping is shown on the 111<sup>th</sup> Street East frontage (west side) or along the site's south side, along 101<sup>st</sup> Street North.

The subject property (an agricultural field) is in rural Sedgwick County, just over a ½-mile south of the small, unincorporated town of Furley. The Furley United Methodist Church is planning to relocate from its present site inside Furley and rebuild on the subject site. The largest business in Furley appears to be the Co-op with its five grain elevators that serves the farmers in the area. The site and all properties around it are zoned "RR" Rural Residential and are used for agriculture with scattered farmsteads and large tract single-family residences. Both the east and north sides of the site abut large tract single-family residences, with their houses located 70-feet to 200-feet from the site's property line. There is a single-family residence south, across 101<sup>st</sup> Street North, of the site, with its house located approximately 140-feet from the site. An agricultural field is west, across 111<sup>th</sup> Street East, of the site.

**CASE HISTORY:** The site is being platted as the Furley United Methodist Church Addition. The plat, SUB 2005-28, has not been reviewed by the MAPC at this time.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR" Rural Residential	Large tract residential & Agriculture
EAST:	"RR" Rural Residential	Large tract residential & Agriculture
SOUTH:	"RR" Rural Residential	Large tract residential & Agriculture
WEST:	"RR" Rural Residential	Agriculture

**PUBLIC SERVICES:** Both 101<sup>st</sup> Street North and 111<sup>th</sup> Street East (Greenwich Road) are paved, two-lane county highways. The 2020 County Transportation Plan shows no change in status for these roads. The traffic count at this intersection is 1,010 – 1,408 trips per day, on 111<sup>th</sup> Street East and 382 – 427 trips per day on 101<sup>st</sup> Street North. There is no public water or sewer available for the site. The site is proposed to be served by a lagoon. It is located within Sedgwick Rural Water District #1, which it proposes to use. It appears to be located in the Butler Rural Electric Cooperative Assn. District.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as Rural. This category encompasses land outside the 30-year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses and large lot residential uses. The Unified Zoning Code requires a Conditional Use for churches and outdoor recreation and entertainment in the "RR" Rural Residential zoning district.

**RECOMMENDATION:** Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to a platting within a year and with the following conditions.

1. The Conditional Use shall be restricted to a church and a privately-owned area for sports fields, basketball courts, volleyball courts and accessory uses such as concessions, restrooms, picnic areas, playground areas, fishing pond and pavilion, a barbeque pavilion and walking paths. No other outdoor entertainment and recreation activities shall be authorized by the Conditional Use.
2. The church will comply with the Sedgwick County standards for water service for the church's use and for fire suppression.
3. The sale of concessions shall be incidental to the permitted outdoor entertainment and recreation use and shall be in conformance with applicable health regulations. The sale of alcoholic beverages is prohibited.
4. The surface of the parking lots shall be concrete or asphalt. The number of parking spaces provided shall be in accordance with Section IV-A.4. of the Unified Zoning Code. Fewer parking spaces may be provided if a variance or adjustment is granted in accordance with Article V of the Unified Zoning Code.
5. The church will comply with the Sedgwick County and KDHE standards for a lagoon or septic system for the site's use (church and its associated uses) prior to operations commencing on the site.
6. Signage shall be one monument type sign, per the Sedgwick County Sign Code, Resolution #218-04.
7. Landscaping will be within the setbacks, as determined by the plat, along all sides of the site. Evergreens trees, a minimum of 5-feet tall will be planted every 30-feet along the east and north property lines, where the playing fields abut the neighboring large tract residences. Along the 101<sup>st</sup> Street North and 111<sup>th</sup> Street East frontages, where the parking lot is located, shade trees, 2-inch caliper, will be planted every 50-feet. Along the 101<sup>st</sup> Street North frontage, where the baseball and soccer fields are located, shade trees, 2-inch caliper, will be planted every 50-feet.
8. Development shall be substantially in conformance with a revised Site Plan and Landscape Plan. A drainage plan must be approved prior to the construction of the playing fields.
9. Pole lighting shall be no taller than 15-feet in height and shall be directed onto the church property and away from the adjacent properties.
10. The church shall agree to hook up to water and sewer when these services become available.
11. The playing fields will be open during daylight hours. No lighting of the playing fields will be permitted.

12. All requirements of Section III.D.6.o. of the Unified Zoning Code shall be met, except as modified by the conditions of the Conditional Use.
13. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
14. The use of chemical portable toilets shall be permitted. The portable toilets shall be located at least 300 feet from any property line and shall be enclosed on three sides by a screening fence, including fencing on the south side. Documentation of an ongoing maintenance contract for the removal of the waste from the chemical portable toilets shall be provided to the Sedgwick County Code Enforcement Department. The disposal of waste from the chemical portable toilets shall be in accordance with Sedgwick County's sanitation codes.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "RR" Rural Residential. The immediate surrounding area is developed as agricultural with scattered large tract single-family residence, farmsteads and the small-unincorporated town of Furley.
2. The suitability of the subject property for the uses to which it has been restricted: The site is agricultural in character. The site could continue to be used as it is or developed as residential with well/rural water and a lagoon/septic system. Because there are no plans for water and sewer service to be provided to this area large lot residential subdivisions are unlikely at this time or in the future.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan identifies the best use for this area as agricultural or a similar compatible land use, which a church and its associated playing fields could be with the conditions required by this request. The request for a church on "RR" Rural Residential zoning is a Conditional Use per the Unified Zoning Code. The request for an outdoor recreation and entertainment on "RR" Rural Residential zoning is a Conditional Use per the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be significant. There will be increase in traffic on the site.

LONGNECKER The applicant is asking that they be allowed to use gravel or asphalt on their parking lot. This parking lot will be used for both the church and the sporting fields.

**MOTION:** Approve subject to staff recommendations with a modification to Condition 12.

**MITCHELL** moved **WARNER** seconded the motion and it carried 11-0.

7. **Case No.: - ZON2005-20** – Exacta Machine Co, Casey Voegeli (applicant), Baughman Co P.A., Terry Smythe (agent)  
Request Zone change from "SF-5" Single-Family Residential to "GC" General Commercial on property described as;  
**MAPC deferred May 26, 2005**

Lots 1-12, 14, 16, 18, 20, 22, 24, 26, 28, 30 and 32, Block 3, in College Green Addition, to the City of Wichita, Sedgwick County, Kansas

Lots 1, 3, 5, 7, 9, 11, 13, 15 and 17, Block 1, Dugan's Addition to College Green, to the City of Wichita, Sedgwick County, Kansas, replatted and referred to as Lots 1 and 2, Blanchat Machine Company Addition to the City of Wichita, Sedgwick County, Kansas

Lots 13, 15, 17, 19, 21 and 23, Block 3, College Green Addition to the City of Wichita, Sedgwick County, Kansas  
Generally located south of Maple and west of All Hallows.

**BACKGROUND:** The applicant requests "GC" General Commercial zoning on a .5-acre site, currently zoned SF-5 Single-family. The proposed use is parking for an existing machine shop company, located south of Maple and west of All Hallows. The machine shop on the parcel north and west of the site was rezoned to GC in 1998; that rezoning resolved a non-conforming use and allowed for expansion of the machine shop. The current application area is developed with a single-family residence, the lot is larger than most surrounding residential lots. Northwest of the site, at the Maple/All Hallows intersection is an LC zoned automobile service garage. Further north, across Maple is an SF-5 zoned middle school. South and east of the site are SF-5 zoned single-family residences.

**CASE HISTORY:** The application area is platted as Lots 13, 15, 17, 19, 21, and 23 of the College Green Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GC" General Commercial	Machine shop
SOUTH:	"SF-5" Single-Family Residential	Single-family residential
EAST:	"SF-5" Single-Family Residential	Single-family residential
WEST:	"GC" General Commercial	Machine shop

**PUBLIC SERVICES:** All Hallows Street is a paved residential street with a 60-foot right-of-way. The site currently has one point of access from All Hallows on the north side of the site, immediately south of the alley. An accessible alley exists north and west of the site. The application area does not have direct access to Maple; the machine shop complex has frontage on Maple, but access points are from All Hallows and Leonine. Maple is a four-lane arterial at this location with a 90-foot right-of-way. The 2030 Transportation Plan indicates that this section of Maple will remain a four-lane arterial.

All other normal public services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "low density residential". Immediately north of the site identified as appropriate for "commercial" development.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The UZC would require a 25-foot compatibility setback between non-residential and residential development, as well as a screening requirement from residential zoning. As the proposed use is for parking, parking would be prohibited in the required front and side setbacks of the site, which are 20 and five feet respectively in the GC district. Conformance with the Landscape Ordinance would be required for this proposal.

**RECOMMENDATION:** The proposed GC zoning would allow a range of commercial and industrial uses not permitted under the current SF-5 zoning. The current proposed use is for parking in support of the existing machine shop complex to the north and west. The proposed parking could buffer the residences to the south from the machine shop use.

The proposed zone change is not in conformance with the Land Use Guide, but is in conformance with the Locational guidelines of the Plan.

A residential neighbor south of the site has contacted MAPD; the neighbor is opposed to expansion of the machine shop use.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following Protective Overlay:

1. Uses on this site shall be limited to parking in support of the machine shop north and west of the site.
2. The applicant shall submit a site plan, to be approved by the Director of Planning, which limits site access to the existing access point on the north boundary of the site. The site may have access from the alley north and west of the site. The site plan shall demonstrate screening of the site from residential uses south and east of the site.
3. The applicant shall dedicate access control to All Hallows Avenue except for one opening adjacent to the alley on the north boundary of the site.
4. The site shall be developed in general conformance with the approved site plan.
5. The applicant shall submit a landscape plan, to be approved by the Director of Planning, which meets the requirements of the City of Wichita Landscape Ordinance.
6. No outdoor storage shall be permitted on the site.
7. Outdoor lighting on the site shall be restricted to 12 feet in height, and shall be shielded away from residential zoning.
8. No signage on the site shall be permitted along All Hallows Avenue.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The proposed rezoning is consistent with the GC zoning and uses north and west of the site. The proposed parking use, under the recommended Protective Overlay, could buffer SF-5 zoned single-family residences south of the site from the machine shop use north of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence as currently zoned. However, staff recognizes that this site is surrounded to the north and west with GC zoning and an industrial use. Therefore, the site may not be attractive for continued single-family use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning non-residential uses could have negative effects on the single-family residences south and east of the application area. The proposed parking use, if under the recommended Protective Overlay, could buffer single-family residences south of the site from the machine shop use north of the site. The proposed Protective Overlay would limit site access to its north boundary, thereby limiting non-residential traffic in the residential neighborhood. The recommended Protective Overlay would also mitigate impacts on the surrounding residences with required screening and landscaping.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for "low density residential" development, which is not in conformance with the application. The proposed rezoning is in conformance with the locational guidelines of the plan, as it is adjacent to an arterial road.

5. Impact of the proposed development on community facilities: The proposed parking, and therefore expansion of the existing machine shop could increase traffic at this location on Maple.

JESS MCNEELY Planning staff presented staff report.

BARFIELD Is the house going to remain there?

MCNEELY No, the house will be removed and the site will be used for a parking lot. In the Protective Overlay items would restrict to the use of the parking lot and other conditions that will help the neighborhood.

SCHELGEL Jess, is staff recommending the vacation of the alley?

MCNEELY Yes.

GAROFALO There is no requirement for paving or anything like that?

MCNEELY If you are going to do a parking lot in support of another use, you are required to pave.

TERRY SMYTHE, BAUGHMAN COMPANY, 315 Ellis We agree with staff comments and the Protective Overlay, we intend to remove the house at sometime and make it a parking lot for the existing machine shop that is out there. We will do our best to vacate the alley. The only thing we have to figure out is how to terminate the alley at mid-block. We have no problem vacating the alley through our piece of property, it is just a City requirement that when the alley goes up to the north it has either got to terminate into a cul-de-sac or T-bone or maybe shoot it out towards the other street.

DUNLAP On the south side of your proposed parking lot, it could come out there so it will move south?

SMYTHE Yes, something like that.

MICHAEL AGUILERA, Jr. 327 All Hallows, Wichita, KS 67213 I live in the house directly south of the proposed area and it is not in any of those slides you just reviewed. My house will face directly towards that new parking lot that they are going to put there. I will be looking at a fence or something? Right now I see an empty field and a house, there are two lots there. I am concerned about the visual lookout from my property. They already have 3 parking lots in the area and why they need a 4th one I don't understand. They have one directly behind my house. Right where they alley they are proposing to terminate, children walk through there everyday for short cuts to school. There is a middle school and elementary school right across the street from the machine shop. I do not know about the new machine shop, what current shifts are they going to be working so I don't know if that parking lot will be operating all three shifts of the night but that will affect me as well. I am also concerned about the property value of my house going down. I do not know how many employees will be working there, plus they have restrictions on the new parking lot they will be putting in, they will be 25 feet away from me, and it will make their parking lot even smaller. The Blanchant Machine shop is an eyesore to the neighborhood already.

SHERMAN How long have you lived in this house?

AGUILERA I have lived there five years.

SHERMAN Was the house next to Blanchant vacant all of that time? Do you know?

AGUILERA Yes, but there is a field between the house and my property.

TERRY SMYTHE, BAUGHMAN The house that is out there today is going to be torn down has been vacant for a number of years, it was the original house that I think Blanchant's owned when they were running the machine shop. Blanchant's is no longer in business and Exacta Machine Co., has bought basically the remains from them so there has not been much activity in the last couple of years because there was not much of a machine shop operation going at that time. Now, with Exacta coming in you will see more people coming in and they desire to have the parking lot and this extra parking lot so that you don't encourage the employees to park on the street, keep themselves self-contained. If the owner of the property to the south potentially want to purchase the vacant lot I would suggest that he contact Casey Voegeli.

ALDRICH How many employees does the machine shop have?

BAUGHMAN I do not know.

BARFIELD How many shifts are we talking about?

SMYTHE I do not know.

BARFIELD What type of screening do you plan to erect between the commercial and the residential properties?

SMYTHE They will do what is required by the Code.

SHERMAN What kind of lighting requirement on that parking lot?

SMYTHE We are restricted to the height of the lights 12-foot.

DUNLAP That is Condition #7 of the Protective Overlay.

GAROFALO What portion of the tract will be the parking lot?

SMYTHE The intent right now is the entire lot. If the owner to the south wants to buy the lot or part of a lot he should contact Casey Voegeli.

BARFIELD The parking lot that is across the street that is paved, does that belong to Exacta?

SMYTHE Yes, it backs up to the storage units, that is part of the purchase of Exacta Machine Shop.

BARFIELD Do they plan to use that for parking?

SMYTHE Yes.

**MOTION:** Approve subject to staff recommendations.

**MITCHELL** moved **BISHOP** seconded the motion and it carried 11-0.

8. **Case No.: ZON2005-17** – Tam Thanh Nguyen (owner, agent); Gladys Hembrough (owner) Request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

9825 E. Harry (Legal)

A tract of Land in the Northwest Quarter of Section 33, Township 27 South, Range 2 East of the 6th P.M., described as follows: beginning 733.66 feet East of the Northwest corner of the Northwest Quarter of Section 33, Township 27 South, Range 2 East, Sedgwick County, Kansas, thence South 335 feet; thence East 130 feet; thence North 335 feet; thence West 130 feet to the point of beginning.

9801 E. Harry - Legal

Beginning 623.66 feet East of the Northwest corner of the Northwest Quarter, thence South 335 feet; thence East 39.08 Feet; thence South 197 feet; thence East 200.91 feet; thence North 197 feet; thence West 130 feet; thence North 335 feet; thence West 110 feet to beginning, EXCEPT the North 40 feet for road, Section 33, Township 27 South, Range 2 East of the 6th Principal Meridian. Generally located on the south side of Harry Street, approximately 600 feet east of Webb Road.

**BACKGROUND:** The applicant requests "LC" Limited Commercial zoning on an unplatted 2.4-acre site, currently zoned "SF-5" Single-Family Residential, for a retail development. The application area is south of Harry and west of Webb Road, and is currently developed with a vacant single-family residence.

North of the application area are LC zoned storage units, a restaurant, and GO zoned offices. South of the application area is an SF-5 zoned, 5-acre, unplatted single-family residence. East of the site is a GC zoned garden center. West of the application area are LC zoned retail uses, a car wash, and a convenience store.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC", "GO"	Storage, restaurant, office
SOUTH: "SF-5"	Single-family residential
EAST: "GC"	Garden Center
WEST: "LC"	Retail, car wash, convenience store

**PUBLIC SERVICES:** Harry is a four-lane arterial at the application area with a 40-foot half-width right-of-way (ROW). The 2030 Transportation Plan projects this section of Harry to become a five-lane arterial. No projects exist for this portion of Harry in the CIP through 2011. Current traffic counts on this portion of Harry are 14,995 vehicles per day. The site currently has two access points to Harry. Two access points onto Harry exist between the site and Webb, the nearest is approximately 180 feet west of the site. The garden center east of the site also has two access points onto Harry, the nearest being approximately 85 feet from the site.

Other normal public services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development, reflecting the current zoning. Either side of the site is designated as appropriate for "commercial" development.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The City of Wichita Access Management Policy requires a 60-foot half-width ROW on arterials. The policy also requires that right-in/right-out openings be spaced a minimum of 200 feet from other openings, and that full turning movement have a 400-foot separation.

The Unified Zoning Code (UZC) would require compatibility setbacks between non-residential and residential development, as well as screening requirements between commercial and residential development. The Landscape Code would require a landscape plan consistent with that code for commercial development at the application area.

**RECOMMENDATION:** The proposed zone change is in conformance with the "2030 Wichita Functional Land Use Guide" recommendation of local commercial use; it is also in conformance with the recommended commercial locational guidelines. Increased traffic on this section of Harry can be mitigated with widening through dedication of right of way, bringing Harry to the City standard of 60-foot half width ROW.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year, subject to dedication 20 feet of right of way on Harry, and subject to dedication of access control on Harry, except for one opening to be determined at the time of platting.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposal is consistent in terms of zoning, uses, and character with other commercial zoning and development on this portion of Harry. The large lot residential use south of the site will probably redevelop over time.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for single-family residences as currently zoned. However, this site may not be attractive for single-family as it fronts a major arterial street, and borders commercial uses to the east and west.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and commercial development could have a negative effect on the single-family residential use south of the application area. However, code requirements for compatibility setbacks, screening and landscaping should mitigate that impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" recommends local commercial use at this site. The proposed development is also in accordance with the commercial locational guidelines of the plan. Through the platting process, this site can come in conformance with the Access Management Policy.
5. Impact of the proposed development on community facilities: Increased traffic from the proposed development would affect the arterial street. Proposed right of way dedication and widening on Harry, as well as entrance spacing requirements, should mitigate increased traffic problems. Other community facilities should not be significantly affected.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

9. **Case No.: ZON2005-24** – W.G. Enterprises, LLC Request Zone change from "TF-3" Two-family Residential and "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

The east 18.75 feet of Lots 1, 3, 5, 7, 9 and 11, and the east 18.75 feet of the north 20 feet of Lot 13, on Dellrose Avenue; AND Lots 2, 4, 6, 8, 10, 12, 14, 16, 18 and 20, on Oliver Avenue, all in East Lawn Second Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located at the southwest corner of Central and Oliver.

**BACKGROUND:** The applicant requests "LC" Limited Commercial zoning on Lots 12, 14 & 16, the eastern 18.75-feet of Lot 11 and the eastern 18.75-feet of the northern 20-feet of Lot 13, all in the East Lawn Second Addition. The application area is part of a site currently developed as a freestanding commercial building (built 1965) and its parking lot. With the requested "LC" zoning, the applicant proposes to bring the existing noncompliant portions of the freestanding commercial building and parking lot into compliance.

With the exception of the application area, all of the site's free standing commercial building and a portion of its parking/circulation are zoned "LC". The remaining portion of the site's parking/circulation is zoned "GO" General Office.

Northeast and northwest of the application area's site, across Central Avenue, there is an office building, a Quick Trip convenience store, a liquor store and a bingo parlor, all zoned "LC". East of the application area, across Oliver Street, there is a Dillon's grocery store, zoned "LC". South of the application area there are single-family residences zoned "TF-3". Abutting the west side of the application area, there is a medical-dentist office with an attached residence facing the application area's parking lot zoned, north to south, "LC", "TF-3" and "SF-5", with CU-635 over it, and south of that a single-family residence zoned "TF-3". Touching the application area's northwest corner is a pool supply business, zoned "LC".

**CASE HISTORY:** The application area is all in the East Lawn Second Addition, which was recorded with the Register of deeds January 12, 1927.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC" Limited Commercial

SOUTH: "GO" General Office

"TF-3" Two-family Residential

Retail, office

Parking lot, single-family residences

EAST: "LC" Limited Commercial  
WEST: "LC" Limited Commercial  
"TF-3" Duplex Residential  
"SF-5" Single-family Residential

Grocery store  
Medical-Dental Office  
Single-family residences

**PUBLIC SERVICES:** Current traffic counts on this segment of Central Avenue are between 20,326 and 23,398 vehicles per day. Projected traffic along this section of Central Avenue will be 24,000 vehicles per day. Current traffic counts on this segment of Oliver Street are between 13,729 and 14,083 vehicles per day. Projected traffic along this section of Central Avenue will be 16,000 vehicles per day. Central Avenue is a five-lane, arterial street at this location with 40-feet of half street right-of-way (ROW), which does not meet the Access Management Policy ROW requirement of 60-feet. Oliver Street is a four-lane, arterial street at this location with 30-feet of half street ROW, which does not meet the Access Management Policy ROW requirement of 60-feet. Public Works has a proposed 2008 Capital Improvement Project for this intersection, which would include putting a left hand turn lane in this section of Oliver Street.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended "05/26" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "local commercial", which reflects the application area's site's development.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zoning Code (UZC) requires compliance with compatibility setbacks between non-residential and residential zoning, lighting, screening, and landscaping.

**RECOMMENDATION:** The application area appears to have been used for freestanding retail and parking since the mid-1960s, the application will bring the area, within the larger use site, into long over due compliance. The proposed zone change is in conformance with the recommended Commercial Locational guidelines of the Plan.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request for "LC" zoning on Lots 12, 14 & 16, the eastern 18.75-feet of Lot 11 and the eastern 18.75-feet of the northern 20-feet of Lot 13, all in the East Lawn Second Addition be APPROVED, with the contingent dedication of 20-foot of ROW along the application area's site where it fronts Central Avenue, the contingent dedication of 30-foot of ROW along the application area's site where it fronts Oliver Street, and compliance with the UZC's compatibility setbacks, screening, lighting, access and landscaping.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposed zoning is not out of character with nearby "LC" zoning and uses at the Central Avenue – Oliver Street intersection. The proposed zoning would bring into compliance a portion of a commercial site that has been in its current use since the mid-1960s. The proposed development would be buffered and screened from the abutting residential properties.
2. The suitability of the subject property for the uses to which it has been restricted: For the site to be used for a duplex the south 25-foot of the freestanding retail building and the existing parking would have to be demolished. The site is best suited for its current use and its current zoning appears to be an oversight.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning would bring existing codes including compatibility setbacks, landscaping, lighting, access and screening requirements into force and improve an existing use, in regards to its impact on its residential neighbors on its west and south sides.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended "05/26" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the site as appropriate for "local commercial" development.
5. Impact of the proposed development on community facilities: The proposed zoning would bring a portion of an existing use into compliance with the UZC. The impact on community facilities will remain unchanged.

**MOTION:** Defer for two weeks.

**WARNER** moved, **DOWNING** seconded the motion and it carried. (11-0)

10. **Case No.: CON2005-20** - Bruce Gilder (owner/applicant) Request Conditional Use for an accessory apartment on property zoned "TF-3" Two-family Residential on property described as;

Lots 33-35, Snively-Miller & Work's Sub, Sedgwick, County Kansas. Generally located south of Mt. Vernon on the east side of Topeka Avenue.

**BACKGROUND:** The applicant requests a Conditional Use to allow an accessory apartment on a 0.18-acre platted lot zoned "TF-3" Two-family and located south of Mt. Vernon on the east side of S. Topeka (2006 S. Topeka). The applicant proposes to convert an existing detached garage to an accessory apartment. The applicant indicates that the owner would occupy the apartment.

The character of the surrounding area is residential. All properties surrounding the subject property are zoned TF-3 and most are developed with single-family residences. Two duplexes exist on the same block, to the south of the site, and two duplexes also exist one block to the east.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the "TF-3" Two-family zoning district. Section III-D.6.a. of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The applicant submitted the attached site plan illustrating the location of the detached garage and proposed accessory apartment. The applicant indicates that it would be a two-bedroom apartment. The accessory apartment will be located behind the house and will have a separate access to the alley.

**CASE HISTORY:** The property was platted as Lots 33 and 35, Snively Miller and Works Subdivision Addition in 1886.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" Single-family residences  
SOUTH: "TF-3" Single-family residences, duplexes  
EAST: "TF-3" Single-family residences, duplexes  
WEST: "TF-3" Single-family residences

**PUBLIC SERVICES:** The subject property has access to both S. Topeka and the alley. S. Topeka is a paved residential street with a 60-foot right-of-way. The subject property is connected to public water and sewer. No impacts on public services are anticipated.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "low density residential" development. Two dwelling units on the application area are considered "low density residential." The policies of the Unified Zoning Code (UZC) allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms with adopted policies.

**RECOMMENDATION:** The application area is zoned TF-3, as is the surrounding residential neighborhood. The application area and surrounding properties could be redeveloped with two residential units as a duplex, and four duplexes exist within a one-block radius. The supplementary conditions of the UZC, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Construction of improvements shall be completed within one year of approval of the Conditional Use.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned "TF-3" Two-family and are developed with single-family residences; four duplexes exist within a one-block radius. Given the size of the subject property, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a single-family residence. Accessory apartments are allowed as a "Conditional Use" in TF-3 provided the applicant and the

site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the depth of the lot, and access to the accessory apartment from the alley. The placement of the accessory apartment within the renovated garage meets zoning setback requirements.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "low density residential" development. Two dwelling units on the application area are considered "low density residential." The Unified Zoning Code makes specific provision for accessory apartments in "TF-3". This application as recommended for approval complies with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

JESS MCNEELY The District Advisory Board voted to deny this application, and there was concern about whether or not work had been done prior to receiving permits or not, and whether this was already being used as an accessory apartment or not. Staff is recommending approval after reviewing the conditions and the supplementary conditions of the Unified Zoning Code, the Comprehensive Plan, and we find this is an appropriate land use. The Office of Central Inspection has not issued a Certificate of Occupancy for a dwelling unit in this accessory apartment.

HENTZEN Is there one building or two buildings on that lot now?

MCNEELY Two buildings are on the lot now.

HENTZEN They are permitted?

MCNEELY Yes.

HENTZEN What they are trying to do now is to get approval to put a garage on the end of one of the lots?

MCNEELY No, there is an existing detached garage, and the main single-family home facing on south Topeka Street, and a detached garage with access right to the alley. There is an existing detached garage. The request is essentially to convert the existing detached garage into an accessory apartment.

HENTZEN They are asking to put two livable places on that lot?

MCNEELY Yes, and this is allowed under the Unified Zoning Code with a Conditional Use in "TF-3" zoning.

ALDRICH Is my understanding correct, that they remodeled this and converted the garage into a livable apartment without a permit?

MCNEELY I cannot state if they have completed that conversion without a permit or not. There have been multiple permits pulled on this for renovation and for utilities. The Office of Central Inspection has not issued a Certificate of Occupancy for a dwelling unit for an accessory apartment.

ALDRICH Based on the information that we have received from the DAB report that on September 23, 2004, that is when the construction on the property occurred?

#### **TAPE CHANGE TAPE 4 SIDE A**

MCNEELY It was never requested for a dwelling unit-building permit up until now.

MITCHELL The only access to this accessory apartment will be a dirt alley?

MCNEELY Yes.

MITCHELL Is that standard?

MCNEELY In the older portions of Wichita with detached garages that access alleys; we do have that situation.

MITCHELL Yes, but here we are talking about a garage as a living space.

MCNEELY That would be standard. That would not be uncommon.

ALDRICH Will there be any parking requirements? Where are they going to park a vehicle?

MCNEELY There is a 15-foot setback from the alley to the accessory apartment, but there will be room for parking along the alley. Those are questions that the applicant can help answer.

BRUCE GILDER, 2006 S Topeka, Wichita, KS 67211 I bought this property on September 13, 2004.

DUNLAP Do you live there?

GILDER Yes. I entered into a contractual agreement in August last year to purchase this property, and there were three primary conditions of that agreement, and one of which was that my insurance company required a new roof on the house. That permit was pulled on August 30th, and was pulled by a homeowner by somebody I don't even know. Today I have arranged to have an inspection done on Monday in the morning.

The condition that caused the hiccup here was that a contractor had to be hired and \$2,500 was paid to this contractor to do work on this garage. When I first looked to buy this property I was looking at it as a centralized location for me to run my own rental business from, and I mean residential rental not equipment rental. I have my own tools, and I need storage, and an area to paint. When I looked at this garage I was thinking the backroom would make a nice paint room, and I could put a dividing wall in, and have and office space and split it out that way.

This section of the garage (points to location) is actually an add-on to the garage, and it had a single car garage door. This had a two-car garage door here. My requirement was that the single car garage door be moved to the location of the two-car garage door, a personnel door be put there, and the framing took place there and a doorway between the garage, and the add-on be put there, and that was the work that was conducted by the contractor that was hired to do that. This all took place about the last 15 days of September. I was not aware until after speaking with Kurt Schroeder today that work needed to have a permit pulled, and I figured the contractor that was hired to do the work would know so I didn't check.

So this was going to be initially a workshop. The complaint was filed with Central Inspection on September 20th that this work had begun on the garage. I completed in September the siding on the east side where the single car garage door had been put in. October 1st I pulled a permit to separate the paint area and office area so I could do that work. In November I had some electrical done because it only had 30-amp service from the house, and a permit was pulled.

In November is when I thought about making this another apartment. So at that time I came to the Planning Department in Plan Review. In November another complaint was filed with OCI that I had someone living in that garage. The inspector showed up, and I invited him in the garage so he could see nobody was living there.

December 24th, I had a water line freeze and break in the garage, which dropped about eight sheets of rock off the ceiling along with the installation. Another complaint was filed about my trash carts out front and being there longer than the day of pick up which I took care of.

May 15th, my dogs got out of my yard and got into my neighbors yard, and this had happened on several occasions. She left a note on my door saying, "Keep your dogs out of my yard." I left a note on her door saying, "Fix your fence." I have tried on several occasions to approach her with the idea of fixing her fence for \$5.00 but she won't even talk to me.

My property here was built in 1953, and looking south of the alley you see a bit of chain link and that leads down to 2027 S. Emporia where you see another accessory apartment in the back access by the alleyway with a nice gate there. That is only three houses south of mine. Also, on South Topeka there are duplexes on that block. I don't think my application is out of character of the neighborhood.

**MOTION:** Approve subject to staff recommendations.

**WARNER** moved, **BISHOP** seconded the motion and it carried 11-0.

11. **Case No.: CUP2005-28 DP286 (Associated with ZON2005-23)** – Matt Lillie (owner/applicant); Baughman Company c/o Russ Ewy (agent) Request The creation of Lillie Office Park Community Unit Plan; and Zone change from "SF-5" Single-family Residential to "GO" General Office on property described as;

The North 297.3 feet of the South 677.1 feet of the East half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., containing 9 acres, more or less, all in Sedgwick County, Kansas, TOGETHER with a tract of land in the East half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., described as follows: Beginning at a point on the West line of said East half of said Northeast Quarter, 257.68 feet North of the Southwest corner of said East half of said Northeast Quarter, thence North on said West line, 122.32 feet; thence East parallel to the South line of said Northeast Quarter, 1313.9 feet, more or less, to the East line of said Northeast Quarter; thence South on said East line, 319.9 feet to a point 60 feet North of the Southeast corner of said Northeast Quarter; thence West parallel to the South line of said Northeast Quarter, 1024.4 feet to the P.C. of a curve; thence Northwesterly on a curve to the right, having a deflection angle of 61 degrees 01 minutes, and a radius of 104.79 feet, a distance of 93.31 feet to the P.T. of said curve, thence Northwesterly on a tangent to said curve, 95.74 feet to the P.C. of a curve; thence Northwesterly on a curve to the left, having a deflection angle of 26 degrees 39 minutes and a radius of 126.66 feet, a distance of 58.91 feet, to the P.T. of said curve; thence Northwesterly on a tangent to said curve, 117.45 feet to the point of beginning. Generally located west of Maize and south of Maple

**BACKGROUND:** The applicant is requesting to create the Lillie Office Park Community Unit Plan on a 17.28-acre unplatted tract located south of Maple and west of Maize. The applicant also is requesting a zone change for the subject property from "SF-5" Single Family to "GO" General Office.

The subject property is currently developed with a vacant school/church building. The existing building is proposed to be razed and the site redeveloped. The character of the area is low density residential. All of the surrounding properties are zoned "SF-5" Single Family and are developed with single-family residences.

The applicant proposes to develop the subject property with uses permitted in the "GO" General Office zoning district, with the exception of residential uses, cemetery, correctional placement residence, golf course, group home, recycling collection station, hotel or motel, marine facility, parking area, asphalt or concrete plant, and agriculture. The subject property is proposed to be

divided into six parcels, with three of the parcels containing office development and the other three parcels containing open space and drainage retention ponds. A maximum of 234,890 square feet of floor area in a maximum of 12 buildings is proposed. A maximum building height of 35 feet is proposed. One access point to Maize Road is proposed, and no access points are proposed to Hidden Valley Road. Building setbacks of 35 feet are proposed along all street right-of-way and where the subject property abuts residential properties. Signs are proposed to be permitted per the Sign Code with one 96 square foot, 16-foot high monument sign permitted for each of the three parcels along Maize Road and with additional restrictions on off-site and portable signs, sign type, and sign spacing. The screening wall requirement is proposed to be waived, with screening provided by evergreen vegetation or landscaped earth berms, including a 25-foot buffer provided along the north, west, and south property lines to protect existing trees. Landscaping is proposed per the Landscape Ordinance, with the addition that landscaped street yards and parking lot screening and landscaping will be provided along the interior street. Light poles are proposed to be limited to 24 feet in height. Buildings are proposed to share a uniform residential architectural character with predominate exterior materials of brick, stone, or stucco and building roofs that are compatible with typical residential construction.

**CASE HISTORY:** In 2003, the applicant proposed the creation of a Planned Unit Development (PUD2003-00003) to permit office, community assembly, indoor recreation, and townhouse residential development. The applicant subsequently withdrew the request for a PUD.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	Single-family residences
SOUTH: "SF-5"	Single-family residences
EAST: "SF-5"	Single-family residence
WEST: "SF-5"	Single-family residences

**PUBLIC SERVICES:** The site will have one point of access to Maize, a four-lane arterial street. Traffic volumes on Maize are approximately 15,000 vehicles per day and are projected to increase to approximately 19,000 vehicles per day in the 2030 Transportation Plan, which recommends that this stretch of Maize remain a four-lane arterial street. As proposed, office development on the subject property would generate sufficient traffic in the peak hour to trigger the requirement for a traffic study to determine the necessary street improvements to handle the additional traffic generated by the subject property. The traffic study will be reviewed, and guarantees for any needed street improvements will be acquired through the platting process. Water and sewer service are provided to the subject property the City of Wichita. The area has drainage problems during moderate to heavy rains, and a drainage plan will be required to be approved and implemented through the platting process to ensure that post-development storm water run-off from the site does not increase.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Public/Institutional" development. While the proposed office park does not specifically comply with the Comprehensive Plan's recommended use of the site, the applicant's proposal places significant restrictions on uses and requires high development standards to increase compatibility with surrounding low-density residential uses. The proposed office park would have similar impacts on the surrounding area as a large school or church, which could be developed by right with very few development standards and would conform with Land Use Guide's recommended use for the subject property.

**RECOMMENDATION:** Based on the information available prior to the public hearing, planning staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00023) to "GO" General Office subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-286 Lillie Office Park CUP) subject to platting within one year and subject to the following conditions:
  1. The following shall be removed from General Provision #15: "Buildings shall be designed with a residential architectural character, including roofs that are gable or hip in style. Building elevation drawings shall be required for review and approval by the Planning Director prior to the issuance of any building permits to ensure compliance with these provisions."
  2. Prior to publishing the ordinance establishing the zone change, the applicant shall record a document with the Register of Deeds indicating that this tract (referenced as DP-286 Lillie Office Park CUP) includes special conditions for development on this property.
  3. The applicant shall submit four 24" x 36" and one 11" x 17" revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the area is low density residential. All of the surrounding properties are zoned "SF-5" Single Family and are developed with single-family residences. With the proposed limitations on uses and high-development standards, the proposed office park will have a residential character in keeping with the neighborhood; therefore, the request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is currently zoned "SF-5" Single-Family Residential and could be developed with uses permitted in the "SF-5" zoning district. The "SF-5" district permits low-density residential development as well as public/institutional uses such as churches or schools.

Since the site is currently developed with a vacant school/church building, the economics involved with razing the structure make low-density residential reuse of the subject property unlikely.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed restrictions of the CUP, including the limitation on the proposed uses, signage restrictions, architectural control, and landscaping requirements should mitigate detrimental affects on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Public/Institutional" development. While the proposed office park does not specifically comply with the Comprehensive Plan's recommended use of the site, the applicant's proposal places significant restrictions on uses and requires high development standards to increase compatibility with surrounding low-density residential uses. The proposed office park would have similar impacts on the surrounding area as a large school or church, which could be developed by right with very few development standards and would conform with Land Use Guide's recommended use for the subject property.
5. Impact of the proposed development on community facilities: The applicant will be required to provide any necessary improvements to streets and drainage through the platting process. These improvements should mitigate any negative impacts of the proposed development on community facilities.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

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12. Case No.: CON2005-17 – Michael and Jo Ann Frye (owner/applicant) Request Conditional Use for an accessory apartment on property zoned "SF-5" Single-family Residential on property described as;

Lot Twelve (12), Evergreen Place Addition, Wichita, Sedgwick County, Kansas. Generally located North of Maple and east of Tyler Road (100 S. Evergreen).

**BACKGROUND:** The applicant requests a Conditional Use to allow an accessory apartment on a 1.2-acre platted lot zoned "SF-5" Single-family Residential and located at 100 S. Evergreen. The applicant indicates that an elderly father would occupy the apartment.

The character of the surrounding area is residential. All properties surrounding the subject property are zoned SF-5 and developed with single-family residences. Most residential lots on this block and the block to the east are large, generally exceeding 1 acre in size. Lots one block to the west are closer to standard urban size. Three multi-family residential units exist on Evergreen at the Maple intersection; these units are zoned "B" Multi-family.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the "SF-5" Single-family zoning district. Section III-D.6.a. of the Unified Zoning Code (UZY) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The applicant submitted the attached site plan illustrating the location of the proposed detached accessory apartment, at the end of an existing driveway. The accessory apartment is proposed to be located behind the house, and will share access from Evergreen with the primary residence.

**CASE HISTORY:** The property was platted in the county as Lot 17 of the Evergreen Place Addition in 1947.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single-family residences  
SOUTH: "SF-5" Single-family residences  
EAST: "SF-5" Single-family residences  
WEST: "SF-5" Single-family residences

**PUBLIC SERVICES:** The subject property and proposed apartment have access to S. Evergreen. S. Evergreen is an unpaved residential street with a 60-foot right-of-way. The subject property is not connected to public sewer, although a sewer line exists

near the northwest property line. The site currently uses a septic and lateral on-site sewage system. No impacts on public services are anticipated.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "urban residential" development. Given the size of the site, two dwelling units on the application area are considered "low density residential." The policies of the Unified Zoning Code (UZY) allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms with adopted policies.

**RECOMMENDATION:** The application area is zoned SF-5, as is most of the surrounding residential neighborhood; B zoned multifamily units exist on the same street, at the Maple intersection, over 800 feet south of the site. The supplementary conditions of the UZY, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. The site plan indicates that the accessory apartment garage door will face Evergreen, giving the appearance of a detached garage, similar to others in the immediate area. Because an accessory apartment would increase density and water use on the site, staff recommends that the primary residence and proposed apartment hook up to the existing sanitary sewer line immediately west of the site.

Based upon information available prior to the public hearing, staff recommends that the request be APPROVED, subject to the following conditions:

- (1) The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
- (2) The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
- (3) The site shall be developed in general conformance with the approved site plan.
- (4) The primary residence and accessory apartment shall be connected to the local sanitary sewer prior to being issued a certificate of occupancy.
- (5) Construction of improvements shall be completed within one year of approval of the Conditional Use.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single-family and are developed with single-family residences; "B" Multi-family zoned apartments exist at the south end of the block. Given the size of the subject property and surrounding properties, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a single-family residence. Accessory apartments are allowed as a "Conditional Use" in SF-5 provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the depth of the lot, and the size of surrounding lots. The placement of the accessory apartment meets zoning setback requirements, and will have the appearance of a detached garage, similar to others in the immediate area.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate "urban residential" development. Two dwelling units on the application area are considered "low density residential." The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application as recommended for approval complies with all the provisions outlined in the UZY for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities. Connection to the local sanitary sewer will ensure that increased residential use on the site will not have a negative effect on surrounding properties.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

13. Case No.: CON2005-19 – City of Wichita, Water & Sewer Department; Maple Group, LLC c/o Jay Russell Request Sedgwick County Conditional Use to permit a water booster pumping station on property zoned "SF-20" Single-family Residential on property described as;

RE: A tract of land in the Southwest Quarter of Section 23, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the most westerly northwest corner of Lot 10, Block B, Shadow Woods Addition, Wichita, Sedgwick County, Kansas; thence S 02 degrees 03'57" W along the west line of said Block B, 261.25 feet to the SW corner of Lot 9 in said Block B; thence S 89 degrees 59'59" W, 203.37 feet; thence N 00 degrees 00'01" W, 144.82 feet to a point on the southeast line of Amendment of Right of Way Agreement (District Court Case No. 82C2067); thence northeasterly with a deflection angle to the right of 62 degrees 01'38" along the southeast line of said Agreement, 63.87 feet; thence northeasterly with a deflection angle to the left of 01 degree 00'51" along the southeast line of said Agreement, 132.50 feet; thence northeasterly with a deflection angle to the right of 00 degrees 21'51" along the southeast line of said Agreement, 46.11 feet to the point of beginning. Generally located north of Maple 1/3 mile east of 151st Street West.

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a major utility. The major utility will be a water booster pump station (pump station) that will provide service for future development in west Wichita. There are no other pump stations in west Wichita Sedgwick/County at this time. The site was annexed into the City May 12, 2005. There are currently two other pump stations servicing the City, one located at 21<sup>st</sup> Street North and Webb Road and the other located at 37<sup>th</sup> Street North, between Woodlawn Avenue and Rock Road. A major utility is a Conditional Use in all zoning districts.

The subject property is an 8,839 square-foot unplatted field located approximately 1/3 mile east of 151<sup>st</sup> Street West on the north side of Maple Street. The subject property and properties north and west of it are zoned "SF-20" Single-family Residential and are either undeveloped or have single-family residences on large tracts. Properties south and east of the site are zoned "SF-5" Single-family Residential, are platted subdivisions and are either developed or developing. These properties are in the City of Wichita, WCC District V.

The submitted site plan shows the location of the proposed pump station with a proposed landscaped three-foot high berm on its southwest, south, east and northeast sides, a driveway, a parking area, and a transformer pad. Although not shown on the site plan, the pump station building is a 10-foot (x) 20-foot fiberglass building, finished in earth tones. The structure will be 15-foot tall at the peak of its roof. There are plans to replace this structure with a larger one, in 10-12 years, to accommodate anticipated development in the area. This building is shown on the site plan as (A). The site plan does not show a 30-foot Scada pole on the site, any proposed lighting or give the distance from the pump station building(s) to the abutting property lines. It also shows a parking lot for a proposed community pool, which will be located north of the site. Typically Water Department personnel would be on the site once a week to monitor the facility.

**CASE HISTORY:** The subject property is part of the Shadow Woods Reserve addition, which was approved, case #SUB 2005-30, by the MAPC April 14, 2005; it has not been recorded with the Register of Deeds at this time. This subdivision, which is in Sedgwick County but adjoins the Wichita city limits, will be annexed into the City and the current "SF-20" zoning will be converted into "SF-5" zoning.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Fields
SOUTH:	"Sf-5"	Single-family residences
EAST:	"SF-5"	Undeveloped residential subdivision, single-family residences
WEST:	"SF-20"	Single-family residences, fields

**PUBLIC SERVICES:** The site has access to Maple Street, a two-lane, paved county road, at the location of the site. 151<sup>st</sup> Street West is approximately 1/3 mile west of the site and is a gravel, Attica Township road. The 2030 Transportation Plan shows Maple Street to remain a two-lane paved arterial and 151<sup>st</sup> Street west to become a two-lane paved arterial. There are no traffic counts at this intersection. City water and sewer are available at the site, as are all other utilities.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Functional Land Use Guide identifies this area as "urban residential". The pump station is classified as a major utility. Major utilities are needed to provide the general public with electricity, gas, heat, steam, communication, rail, transportation, water, sewage collection and other similar services. The pump station will provide future water service to support the City's west side development trend. A major utility is permitted as a Conditional Use in all zoning districts and at this location appears to be essential for this area.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the subject property being platted within one year and subject to the following Conditional Use restrictions:

- The applicant shall obtain all permits necessary to construct the water booster pump station, prior to the operation commencing.
- A revised site plan will be submitted, which shall include identifying the two phases of pump station buildings, giving their size and dimensions, their height, materials used, all proposed outside lighting, elevations of the buildings, the location of the 30-foot Scada pole and setbacks. If landscaping is to be used for screening it must meet the standards of the landscape ordinance.
- The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational. The site plan shall include landscaping to be reviewed and approved by the Planning Department.
- The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is an agricultural field being replaced by single-family residences. The properties surrounding the subject property are zoned either "SF-20" or "SF-5", reflecting either the earlier larger tract single-family residential county development or the current urban scale city development. This current development trend will expand the city limits further west and is an indication of the current and anticipated urban growth in this area, which the proposed pump station will serve.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-family Residential and is currently a field. The site could be developed as single-family residential, but its proposed use as a pump station will enable future urban scale residential and commercial development further out into western Sedgwick County.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening and lighting standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide identifies this area as "urban residential." The site is on the edge of the 2010 Urban Service Area and within the 2030 Urban Service Area. The site is adjacent to the city limits and will be annexed into the city when platted. The Water and Sewer Department has sighted this area as one of potential growth that will need the added capacity for potable water that the pump station will provide.
5. Impact of the proposed development on community facilities: This pump station will support current and future community facilities.

**MOTION:** Approve subject to staff recommendation.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

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14. **Case No.: ZON2005-22** – Terry S. and Lana J. Johnson (owner/applicant); Baughman Company c/o Terry Smythe (agent) Request Zone change from "TF-3" Two-family Residential to "GO" General Office

Lots 39 and 41, Block 4, Harris and Hoffeld's Subdivision in Imboden and Olivers Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Hillside, south of Waterman.

**BACKGROUND:** The applicant requests a zone change from "TF-3" Two Family to "GO" General Office on a 0.15-acre platted tract located south of Waterman and west of Hillside. The subject property is two platted lots and is developed with a single-family residence. The applicant intends to convert the existing structure to an insurance office. The requested "GO" General Office zoning district will permit the proposed use of the subject property.

The surrounding area is characterized by primarily office uses along Hillside, with residential uses located on the interior properties beyond the Hillside frontage. Since the 1970s, most residential properties along the Hillside frontage between Douglas and Kellogg have been rezoned and replatted to transition from residential to non-residential uses. The properties to the north, south, and east are zoned "GO" General Office and are developed with office uses. The properties to the west are zoned "TF-3" Two Family and are developed with single-family residences.

**CASE HISTORY:** The subject property is platted as Lots 39 and 41, Block 4, Harris and Hoffelds Subdivision in Imboden and Oliver's Addition, Wichita, Sedgwick County, Kansas, which was recorded October 22, 1886.

**ADJACENT ZONING AND LAND USE:**

NORTH: "GO" Office  
SOUTH: "GO" Office  
EAST: "GO" Office  
WEST: "TF-3" Single family

**PUBLIC SERVICES:** The subject property has frontage along Hillside, a four-lane arterial street. Current traffic volumes on Central are approximately 22,000 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on Hillside will not change significantly; however, based on current traffic volumes, the 2030 Transportation Plan recommends that Hillside be widened to five lanes. The 2004-2013 Capital Improvement Program contains a project to widen Hillside to five lanes in 2004; however, the project is behind schedule. Planning staff recommends that the subject property be replatted in order to effect the policies of the Access Management Policy and to establish appropriate right-of-way, setbacks, and utility easements as necessary to facilitate future non-residential use of the subject property both through re-use of the existing structure and for possible redevelopment of the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Office" development. The Office Locational Guidelines of the Comprehensive Plan recommend that office sites should be located adjacent to arterial streets and indicates that low-density office uses, such as the proposed use, can serve as a transitional land use between residential uses and higher intensity uses. The subject property conforms with the Land Use Guide and Locational Guidelines.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by primarily office uses along Hillside, with residential uses located on the interior properties beyond the Hillside frontage. Most of the properties along Hillside in this area are zoned "GO" General Office. Since the 1970s, most residential properties along the Hillside frontage between Douglas and Kellogg have been rezoned and replatted to transition from residential to non-residential uses. The request is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "TF-3" Two Family, which accommodates medium-density residential development and complementary land uses. Given the subject property's location along an arterial street primarily developed with non-residential uses, the viability of residential development on the subject property is questionable. The property is more suited for office or institutional uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Office" development. The Office Locational Guidelines of the Comprehensive Plan recommend that office sites should be located adjacent to arterial streets and indicates that low-density office uses, such as the proposed use, can serve as a transitional land use between residential uses and higher intensity uses. The subject property conforms with the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated if the subject property is replatted to effect the policies of the Access Management Policy and to establish appropriate right-of-way, setbacks, and utility easements as necessary to facilitate future non-residential use of the subject property both through re-use of the existing structure and for possible redevelopment of the site.

KNEBEL Essentially there is a disagreement with the applicant, they do of course want to be approved. Staff is recommending approval and the subject property be replatted, which has been done all along this stretch of Hillside. All of these properties have been converted from residential properties that were platted, I believe, in 1886 and rezoned to office, and the primary issues are street right-of-way for both Hillside and the alley access. The applicant is just asking that they not be required to be replatted. Staff is recommending that the issues regarding the replatting process be aired out at the Subdivision Committee meeting.

ALDRICH What about parking?

KNEBEL This is not a Conditional Use permit request, this a request for zoning of the property.

MITCHELL Does the applicant own the property to the north?

KNEBEL The applicant does not own the property to the north. My understanding is that they are in that building but they don't own it.

TERRY SMYTHE, BAUGHMAN COMPANY I agree with staff except for a few things. There are right-of-way issues and access issues, and Scott and I have talked about it right now. We want to have one access out to Hillside, because there is no way to hook up to any other parking lots to the north or south of this. My indications from Scott is that staff is willing to grant one access to this particular lot. Along the alley we are willing to dedicate the additional 8 1/2 feet that is needed to make the alley consistent with most of the other alley there.

We are in disagreement about the dedication along Hillside. The owner feels that replatting is a costly and needless expense to this property owner. The owner believes that the requirement of replatting is an attempt by the City to gain free property for the right-of-way dedications and access controls. He is willing to dedicate the right-of-way alley. In 2003 the City acquired a 10-foot permanent easement along his property line for future Hillside improvements. So his east side he has granted a permanent 10-foot easement.

The question comes up why they didn't ask for a 20-foot permanent easement. I don't know, and I don't think the owner knew he was just willing to give them the 10-foot. If they would have asked him for the 20-foot you would have had a 50 foot 1/2 street right-of-way. As you all know, now the standard is 60-foot of 1/2 street right-of-way so he is a little leery that if he goes into a replat process that he is going to be asked for not only 10 more feet from the original 10 feet the City asked for but an additional 20 feet to get to the 60 foot requirement.

The Hillside improvements are now being designed and based on some constraints uphill/downhill. The City has taken those Hillside improvements and moved them to the east within the right-of-way. So they don't need additional right-of-way for his property. He is also leery that because no additional right-of-way was taken in 2003 they should not need it now.

The current structure today is setting right at the existing sidewalk today. In additional, land dedication is going to put the existing building in a setback non-conformance status. He is wondering if he has to give up more property what happens to the building? He will be non-conforming if he ever wants to improve that building, and what he wants to do with it. He seriously thinks that since the City didn't acquire the property two years ago for Hillside improvements he doesn't understand why he needs to dedicate it now.

WARNER Terry, the properties to the north and the south that are green on the map, were they replatted when they got the zoning?

SMYTHE Yes.

WARNER The requirement was to replat those?

SMYTHE Correct, and they gave up the additional right-of-way that was required through the replat. This is a 50-foot wide building site.

WARNER Are there existing buildings on those properties or do they have a problem with setback on those property?

SMYTHE No, all the other property in green has been replatted and rebuilt with offices. This one house and 4-5 towards the south end of that block that are still single-family residential.

MITCHELL They are planning to use this property for "GO" General Office? That house, sticking out there the way that is now?

SMYTHE He is currently in the office building to the north and his intention is to go to this house and use it for his insurance for the time being and at some point and time maybe do another building in the back.

MITCHELL And leave the house there?

SMYTHE No, if he ever builds a new building, the house will come down, but right now he wants to use the houses as an office for his insurance.

MITCHELL How did the City acquire the 10-feet?

SMYTHE The City paid for the permanent easement.

DUNLAP We are going to ask this owner to replat? Is that what we are saying?

BISHOP That is the motion.

ALDRICH And that would bring him in conformance with the rest of the properties?

BISHOP Maybe.

DUNLAP It might, then we have a platting issue.

**MOTION:** Approve subject to staff recommendations, subject to replatting the property within one year.

**MITCHELL** moved **WARNER** seconded the motion and it carried 10-1. (DUNLAP opposed)

15. **Case No.: CUP2005-22 DP 285 (Associated with ZON2005-21)** – South Harbor, LLC and Bachman Enterprises, Inc., (owner); Poe & Associates, Inc, c/o Kenny Hill (agent) Request The creation of Harbor Isle South Commercial Community Unit Plan; and Zone change from "LC" Limited Commercial and "SF-5" Single-family Residential to "NR" Neighborhood Retail, "SF-5" Single-family Residential, and "LC" Limited Commercial

**Parcel 1 (DP-285)/Zone Change from LC Limited Commercial to NR Neighborhood Retail**

Beginning 70.00 feet South of the Northwest corner of the Northwest Quarter of Section 30, Township 26 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas; thence East 137.20 feet on the South line of Driftwood Street in Harbor Isle 3rd Addition to Wichita, Sedgwick County, Kansas; thence Southeasterly on a circular curve 140.11 feet on the South line of said Driftwood Street; thence S57°54'00"E 211.48 feet on the South line of said Driftwood Street; thence S25°41'15"W 89.29 feet to a point of curvature; thence on a circular curve to the right having a radius of 116.00 feet and a central angle of 23°06'26" for an arc distance of 46.78 feet; thence S48°47'41"W 179.67 feet to a point of curvature; thence on a circular curve to the left having a radius of 321.00 feet and a central angle of 30°33'03" for an arc distance of 171.16 feet; thence S89°33'30"W 149.77 feet to the West line of said Northwest Quarter; thence North to the point of beginning, containing 3.71 acres more or less.

**Parcel 2 (DP-285)/Zone Change from SF-5 Single-family Residential to LC Limited Commercial**

Beginning 821.59 feet North of the Southwest corner of the Northwest Quarter of Section 30, Township 26 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas, on the West line of said Northwest Quarter; thence East 476.52 feet on the North line of Mallard Cove Addition to Wichita, Sedgwick County, Kansas; thence North at right angles to the North line of said Mallard Cove, 495.27 feet; thence on a circular curve to the left having a radius of 140.00 feet and a central angle of 65°47'27" for an arc distance of 160.76 feet; thence Northwesterly 147.00 feet on a line tangent to the last described curve; thence on a circular curve to the right having a radius of 232.00 feet and a central angle of 33°43'57" for an arc distance of 136.59 feet; thence West at right angles to the West line of said Northwest Quarter 164.33 to a point on the West line of said Northwest Quarter; thence South on the West line of said Northwest Quarter to the point of beginning, containing 7.65 acres more or less.

**Zone Change from LC Limited Commercial to SF-5 Single-family Residential**

4.55 acres in the Northwest Quarter of Section 30, Township 26 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas, being described as follows:

The North 600 feet of the West 600 feet of the Northwest Quarter of said Section 30, except beginning 70.00 feet South of the Northwest corner of the Northwest Quarter of Section 30, Township 26 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas; thence East 137.20 feet on the South line of Driftwood Street in Harbor Isle 3rd Addition to Wichita, Sedgwick County, Kansas; thence Southeasterly on a circular curve 140.11 feet on the South line of said Driftwood Street; thence S57°54'00"E 211.48 feet on the South line of said Driftwood Street; thence S25°41'15"W 89.29 feet to a point of curvature; thence on a circular curve to the right having a radius of 116.00 feet and a central angle of 23°06'26" for an arc distance of 46.78 feet; thence S48°47'41"W 179.67 feet to a point of curvature; thence on a circular curve to the left having a radius of 321.00 feet and a central angle of 30°33'03" for an arc distance of 171.16 feet; thence S89°33'30"W 149.77 feet to the West line of said Northwest Quarter; thence North to the point of beginning. Generally located North of I-235 and east of Meridian.

**BACKGROUND:** The applicant proposes to create a commercial Community Unit Plan containing approximately 11 acres along the east side of Meridian from 42<sup>nd</sup> Street North to 45<sup>th</sup> Street North. The CUP would consist of two distinct parcels separated by a reserve area for residential development to the east. An area currently zoned "LC" would be rezoned "NR" Neighborhood Retail (Parcel 1) and "SF-5" Single-family Residential (area not included within the CUP). Parcel 2 would be rezoned from "SF-5" to "LC".

Parcel 1 (3.71 acres) would allow all uses allowed in the "NR" zoning district, including a community activity center, but excepting day care center, recycling collection station, asphalt or concrete plant, golf course, or any conditional use. Parcel 2 (7.65 acres), would allow "LC" uses except cemetery, correctional placement residence, golf course, recycling collection station, car wash, construction sales and service, any industrial use, any agricultural use, theaters, bowling alleys, taverns and drinking establishments and conditional uses unless allowed by separate CUP amendment. No single use could be greater than 12,000 square feet except a grocery store or drug store. Restaurants can serve liquor only if food is the primary service and drive-through windows within 200 feet of residential lots are prohibited. No auto-serving uses (including vehicle repair, service, car washes permitted, and no overhead doors would be permitted within 150 feet of residential zoning.

Requested ground signage is monument signage 150 sq. ft. in size, 20 feet height and spaced 150 feet apart, oriented to Meridian. Wall signs would be oriented to Meridian and limited to 50 sq. ft. in size per individual sign. No off-site or portable signs allowed.

Setbacks are 20 feet on the perimeter of property. This requires affirmative approval by the governing body since it is below the standard CUP minimum setback of 35 feet. Similarly, screening walls are not shown on the perimeters of the commercial tracts. Maximum building coverage is 30 %, floor area ratio is 0.35, and maximum building height is 35 feet. Three buildings would be permitted on Parcel 1 and five on Parcel 2. Buildings would share uniform architectural character; light poles would be similar or consistent and limited to 24 feet in height. The CUP requires a pedestrian plan connecting the buildings with 45<sup>th</sup> Street North and Hillside, internal cross-lot circulation, and site plan approval of internal circulation.

The surrounding area is primarily single-family residential development on lots oriented to lakes. The proposed CUP would adjoin a residential development with potential for zero-lot setbacks on one side of the dwellings. A church is located west of Meridian on "LC" property and the property to the south of the church is zoned "SF-5" but approved for a CUP with "LC" zoning, pending plat completion. A fire station and a church are located to the west and southwest. The property due south is zoned "MF-18" Multi-family Residential and is undeveloped. The property to the north is zoned "SF-5" and developed as Harbor Isle.

**CASE HISTORY:** The property is not platted, but a preliminary plat has been submitted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	Single-family Residential
SOUTH: "MF-18"	Vacant
EAST: "LC", "SF-5"	Pond, residential
WEST: "LC", "SF-5"	Churches, fire station, vacant, residential

**PUBLIC SERVICES:** The 2002 traffic count for Meridian was 11,925 vehicles per day. Traffic volumes are projected to increase to 21,744 vehicles per day in 2030. Meridian is a four-lane principal arterial.

Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The comprehensive plan amendments adopted in 2005 revised the land use guide to "urban residential" for the entire area proposed as the CUP. Previously, the Wichita Land Use Guide had designated it as "commercial" for the area already zoned "LC" and "low density residential" for the balance of the CUP. The 2005 amendments designated the commercial tracts across Meridian as "local commercial" and "major institutional". The "local commercial" designation would appropriately describe the types of commercial uses requested by the CUP.

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.

**RECOMMENDATION:** The proposed CUP is located along a principal arterial road. The rezoning maintains about the same amount of commercial zoning as presently allowed, but shifts a portion of it southward closer to the I-235/K-96 off-ramp and across from other property approved for commercial use. The development plan includes a platted reserve on the residential side for the majority of Parcel 2 and a street separating the commercial tracts from the residential tracts for Parcel 1. The requested 20-foot setbacks could pose a conflict with nearby residences if rear service areas of the buildings are not adequately screened and buffered with screening walls and landscaping. The reduced setback along the principal arterial could result in buildings being closer to the street, which generally enhances the visual appearance and reduces the amount of parking separating the buildings from the street.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00021) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-285), subject to the following conditions:
  1. Add a landscaping general provision to comply with the Wichita Landscape Ordinance and a screening wall provision to provide the customary Unified Zoning Code CUP screening wall OR provision of additional landscaped buffer equivalent to 1.5 times Wichita Landscape Ordinance requirements.
  2. Require a setback of 35 feet to interior property lines unless the building façade along the property line is architecturally detailed to appear as a double-fronted building and no service/storage uses are allowed along the façade.
  3. Add to General Provision 8: "and pedestrian connections between buildings within the parcels and to the arterial sidewalk and, if desired, the adjoining reserves."
  4. A guarantee for a center left-turn lane shall be provided at time of platting.
  5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  7. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  8. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-285) includes special conditions for development on this property.
  9. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is primarily single-family residential development on lots oriented to lakes. The proposed CUP would adjoin a residential development with potential for zero-lot setbacks on one side of the dwellings. A church is located west of Meridian on "LC" property and the property to the south of the church is zoned "SF-5" but approved for a CUP with "LC" zoning, pending plat completion. A fire station and a church are located to the west and southwest. The property due south is zoned "MF-18" Multi-family Residential and is undeveloped. The property to the north is zoned "SF-5" and developed as Harbor Isle.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in the zoning pattern already approved but the CUP repositions the commercial zoning to the areas more suited for commercial use than the existing pattern.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main effect would be on the property to the east being planned for residential development. The CUP is shifting restrictions rather than removing them.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The comprehensive plan amendments adopted in 2005 revised the land use guide to "urban residential" for the entire area proposed as the CUP. Previously, the Wichita Land Use Guide had designated it as "commercial" for the area already zoned "LC" and "low density residential" for the balance of the CUP. The 2005 amendments designated the commercial tracts across Meridian as "local commercial" and "major institutional". The "local commercial" designation would appropriately describe the types of commercial uses requested by the CUP. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.
5. Impact of the proposed development on community facilities: The CUP should generate about the same level of traffic as would be expected from the existing commercial zoning. A left-turn lane can mitigate traffic congestion from the development.

**SUPPLEMENTAL MEMO TO STAFF REPORT (presented to MAPC by staff, and including revisions to recommendations in staff report and revised findings):** The staff report for DP-285 Harbor Isle South Commercial CUP recommended clarifying

screening, landscaping, and setback requirements. The recommended clarifications are incorporated in the following recommendations.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00021) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-285), subject to the following conditions:
  1. Add General Provision 14: Landscaping and screening for the site shall be required as follows:
    - A. Landscaped street yards, buffers, and parking lot landscaping and parking lot screening – shall be in accordance with the City of Wichita Landscape Ordinance.
    - B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Metropolitan Area Planning Department for review and approval prior to issuance of any building permit(s).
    - C. A financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit if the required landscaping has not been planted.
    - D. Screening shall be provided by (1) a solid masonry screening wall per UZC Art. III, Sec. III-C.2.b(2)(d), or (2) a berm six feet in height, or (3) landscaping provided at a rate of 1.5 times Landscape Ordinance requirements with at least 1/3 of the plant materials being evergreen, or (4) a combination of (1), (2) or (3); provided that said screening complies with the requirements of General Provision #13; or unless if the elevation facing the residential zoning district is designed as a front building façade, then a landscaped street yard requirement shall be substituted for the screening requirements of General Provision 14.D.
  2. Setbacks shall be 35 feet along the east property lines.
  3. Add to General Provision 8: “and pedestrian connections between buildings within the parcels and to the arterial sidewalk and, if desired, the adjoining reserves.”
  4. A guarantee for an accel/decel lane shall be provided at time of platting.
  5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  7. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  8. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-285) includes special conditions for development on this property.
  9. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is primarily single-family residential development on lots oriented to lakes. The proposed CUP would adjoin a residential development with potential for zero-lot setbacks on one side of the dwellings. A church is located west of Meridian on “LC” property and the property to the south of the church is zoned “SF-5” but approved for a CUP with “LC” zoning, pending plat completion. A fire station and a church are located to the west and southwest. The property due south is zoned “MF-18” Multi-family Residential and is undeveloped. The property to the north is zoned “SF-5” and developed as Harbor Isle.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in the zoning pattern already approved but the CUP repositions the commercial zoning to the areas more suited for commercial use than the existing pattern.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main effect would be on the property to the east being planned for residential development. The CUP is shifting restrictions rather than removing them. Flexibility for lower setbacks along Meridian allows the buildings to be set closer to the street to enhance the visual appearance of the streetscape, encourages placement of buildings without parking between the building and street, which also improves the visual appearance and encourages pedestrian walkability, and conforms to the setbacks for “NR” and “LC” districts not within a CUP. The flexible screening requirements offer possibilities of better integrating the development with residential development to the east if the buildings eliminate the rear/service functions near the residential area. This encourages pedestrian linkages between the uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The comprehensive plan amendments adopted in 2005 revised the land use guide to “urban residential” for the entire area proposed as the CUP. Previously, the Wichita Land Use Guide had designated it as “commercial” for the area already zoned “LC” and “low density residential” for the balance of the CUP. The 2005 amendments designated the commercial tracts across Meridian as “local commercial” and “major institutional”. The “local commercial” designation would appropriately describe the types of commercial uses requested by the CUP. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”, with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide”, and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal generate about the same level of traffic as would be expected from the existing commercial zoning.

5. Impact of the proposed development on community facilities: The CUP should generate about the same level of traffic as would be expected from the existing commercial zoning. An accel/decel lane can mitigate traffic congestion from the development; a left-turn center lane already serves this stretch of Meridian.

**MOTION:** Approve subject to staff recommendation, incorporating revisions to recommendations and findings contained in the staff memo.

**JOHNSON** moved, **DOWNING** seconded the motion and it carried. (11-0)

16. Case No.: DR05-16 – Request The City of Park City seeks annexation of tracts of land located north of 101st Street adjacent to The City of Park City

**Background:** On May 10, 2005, the City of Park City passed Resolution No. 596-2005 authorizing a public hearing on July 12, 2005 for the purposes of considering the unilateral annexation of two tracts of lands located north of 101<sup>st</sup> Street and east of Broadway, adjacent to the City of Park City.

The proposed annexation tracts fall within the City of Park City 2030 Urban Growth area as designated on the Wichita and Small Cities 2030 Urban Growth Areas Map of the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Wichita City Council and the Board of County Commission in May 2005. The subject annexation tracts also fall within Park City's future growth area as identified in their adopted Comprehensive Plan.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Park City has submitted to the MAPD, a complete service plan describing the extension of municipal services to the annexation area.

**Analysis:** Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation of two tracts of land located north of 101<sup>st</sup> Street and east of Broadway, adjacent to Park City is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**Recommended Action:** That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 596-2005 of the City of Park City to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

**Attachments:**

Attachment No. 1 - Resolution No. 596-2005, Map and Service Plan

Attachment No. 2 – Wichita and Small Cities 2030 Urban Growth Areas Map (05/05)

MITCHELL My comment is that we do have a facilities plan and a considerable amount of information regarding this annexation, which is what I think we should have on all annexations.

DUNLAP I would agree with you if it would be for the fact that the facilities plan is flawed because it does not address some of the actual events here. They are talking about sewer on Hydraulic.

**MOTION:** Approve subject to staff recommendation.

**MITCHELL** moved **GAROFALO** seconded the motion and it carried 11-0.

The Metropolitan Area Planning Department informally adjourned at 6:49 p.m.

State of Kansas)  
Sedgwick County) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
John L. Schlegel, Secretary

Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)